
STATUTORY INSTRUMENTS

1994 No.653

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained
Special Schools) Regulations 1994**

<i>Made</i>	- - - -	<i>10th March 1994</i>
<i>Laid before Parliament</i>		<i>11th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

In exercise of the powers conferred on the Secretary of State by sections 183(3), (6) and (9), 186 and 301(6) and paragraphs 12 and 14 of Schedule 11 to the Education Act 1993⁽¹⁾, the Secretary of State for Education as respects England, and the Secretary of State for Wales, as respects Wales hereby make the following Regulations:

PART 1

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Education (Grant-maintained Special Schools) Regulations 1994 and shall come into force on 1st April 1994.

Interpretation and general modification

- 2.—(1) In these Regulations, except where the context otherwise requires—
- “hospital special school” means a maintained special school established in a hospital;
 - “maintained special school” means a special school maintained by a local education authority;
 - “relevant particulars”, in relation to a proposed initial governor means—
 - (a) his name and address
 - (b) whether he is to be a parent, teacher or first governor,
 - (c) if he is to be a parent or teacher governor, the term of office that applies in his case under paragraph 10 of Schedule 5 to the 1993 Act; and

(1) 1993 c. 35; for matters to be prescribed and the definition of “regulations” see section 305(1) of this Act.

- (d) if he is to be a first governor, the term of office proposed for him in accordance with that paragraph;

“special school” means a school which is specially organised to make special educational provision for pupils with special educational needs (within the meaning of section 156(1) of the 1993 Act) and is for the time being approved by the Secretary of State under section 188 of the 1993 Act;

“the 1993 Act” means the Education Act 1993.

(2) In those provisions of the 1993 Act and other enactments which are applied by these regulations, references to the acquisition of grant-maintained status shall have effect as references to becoming a grant-maintained special school and references to eligibility for and seeking such status shall have effect as references to eligibility to become such a school and applying to become such a school.

PART 2

PROCEDURE FOR BECOMING A GRANT-MAINTAINED SPECIAL SCHOOL

Special schools eligible to become grant-maintained special schools

3.—(1) Subject to paragraph (2) below, any maintained special school (including a hospital special school) is eligible to become a grant-maintained special school.

(2) A maintained special school is not eligible to become a grant-maintained special school if—

- (a) the local education authority have served notice of proposals to cease to maintain the school under section 14(2) of the Education Act 1981(2) or section 183(2) of the 1993 Act and those proposals have been approved by the Secretary of State with or without modifications; or
- (b) the school does not have a delegated budget.

(3) For the purpose of this regulation a school has a delegated budget if the local education authority have for the time being delegated to its governing body the management of the school’s budget share for any financial year in pursuance of a scheme made by the authority under section 33 of the Education Reform Act 1988(3), pursuant to regulations under section 43 of that Act.

Becoming a grant-maintained special school: duty of governing body and initiation of procedure

4.—(1) section 24 of the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as it applies to other schools which are eligible for grant-maintained status, subject to the modification that for subsection (1) of that section there shall be substituted—

“(1) This section applies, with effect from 1st September 1994, to all maintained special schools in England which are eligible to become grant-maintained special schools.”

(2) In the case of a hospital special school section 24 of the 1993 Act shall apply with the following further modifications—

- (a) In subsections (2) and (4)(b), the words “whether to hold a ballot of parents on the question of” shall be omitted.

(2) [1981 c. 60.](#)

(3) [1988 c. 40.](#) The current regulations are the Education (Application of Financing Schemes to Special Schools) Regulations 1993, [SI 1993/3104.](#)

(b) Subsection (3) shall be omitted.

(c) In subsection (4)(a), for the words “to hold a ballot of parents in pursuance of subsection (2) above” there shall be substituted “application should be made for the school to become a grant-maintained special school”; and for the words “not to hold a ballot” there shall be substituted the words “not to make such an application”.

(3) Sections 25 to 31 of the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as they apply to other schools which are eligible for grant-maintained status but subject, in the case of hospital special schools, to the following modifications—

(a) Where the governing body of a hospital special school which is eligible to become a grant-maintained special school decide by a resolution passed at a meeting of that body to apply for the school to become a grant-maintained special school, they shall give notice in writing of their decision to the local education authority; and subsection (2) of section 25 shall apply to that notice as it applies to notice under section 25(1)(b).

(b) Sections 26 to 31 of the 1993 Act shall not apply.

(4) Section 25 of the 1993 Act shall apply in relation to a maintained special school eligible to become a grant-maintained special school as if there were added at the end of that section the following subsection—

“(4) A meeting of the governing body of a maintained special school shall not consider whether a ballot of parents should be held on the question of whether the school should seek to become a grant-maintained special school or, where the school is established in a hospital, whether an application should be made for the school to become such a school, unless consideration of that question is a specific item of business on the agenda for the meeting, of which at least seven clear days notice shall have been given; and any such question shall only be determined by way of a vote involving the marking in secret of a voting paper by each member present and voting.”

Publication of Proposals

5. Section 32 of and Part I of Schedule 3 to the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as they apply to other schools which are eligible for grant-maintained status, subject to the modifications made by regulation 2(2) and to the following modifications—

(1) For Section 32(1), in its application to hospital special schools, there shall be substituted—

“Subsection (2) below applies where the governing body have passed a resolution in favour of applying for the school to become a grant-maintained special school”.

(2) In section 32(2), in its application to hospital special schools, for the words “the date on which the result of the ballot is determined”, there shall be substituted “the date on which the resolution is passed”; and for the words “for acquisition of grant-maintained status for the school” there shall be substituted the words “for the school to become a grant-maintained special school”.

(3) In Schedule 3:—

(a) For sub-paragraphs 1(1)(a) and (b) in their application to hospital special schools, there shall be substituted—

“(a) posted in at least one conspicuous place—

(i) within the hospital and

(ii) within the area served by the school, and”.

(b) In sub-paragraph 1(2), for the words “of publication of the proposals” there shall be substituted “on which all the requirements of paragraph 1(1) have been satisfied”.

- (c) In sub-paragraph 1(3)(a), for the words “acquisition of grant-maintained status” there shall be substituted the words “the school to become a grant-maintained special school”.
- (d) In sub-paragraph 1(3)(d), for the words “Part II” there shall be substituted the words “section 186(3)”.
- (e) Sub-paragraph 1(3)(e) shall be omitted.
- (f) Sub-paragraph 2(1)(a) shall not apply in relation to hospital special schools.
- (g) Sub-paragraphs 2(1)(b) 2(2) shall be omitted; and for sub-paragraph 2(1)(e) there shall be substituted—
 - “(e) describe the type of special educational provision which is currently made in the school”.
- (h) In paragraph 3—
 - (i) In item (a), for the words “Part II of” there shall be substituted the words “Schedule 11 to”.
 - (ii) In items (a) and (b), for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”.
 - (iii) For item (c) there shall be substituted
 - “(c) explain the circumstances in which a person named in the proposals as a proposed initial governor may be replaced,”.
 - (iv) Item (g) shall be omitted.
- (i) In paragraph 4—
 - (i) In sub-paragraph (1)(a), the words after “of that person” shall be omitted.
 - (ii) In sub-paragraph (1)(b) the words “or as the case may be, foundation” shall be omitted and for “(in accordance with sections 60 to 65 of this Act)” there shall be substituted “(in accordance with Schedule 11 to this Act)”.
 - (iii) In sub-paragraph (1)(d) the words “or regulations made by virtue of section 77 of this Act” shall be omitted.
 - (iv) Sub-paragraph (1)(e) shall be omitted.
 - (v) In sub-paragraph (2) for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”; and at the end of sub-paragraph (a) there shall be inserted the words “explaining that admission will normally be reserved for children for whom statements are maintained under section 168 of this Act(4)”.
- (j) In paragraph 5, for the words “the date of publication of any proposals under section 32 of this Act” there shall be substituted “the date on which all the requirements of paragraph 1(1) above for the publication of proposals under section 32 of this Act have been satisfied”; and in item (a) the words “for the area” shall be omitted.

Approval, modification and implementation of proposals and incorporation of governing body

6.—(1) Sections 33 and 34 of the 1993 Act shall apply to proposals published under section 32 of that Act as applied by these regulations as they apply to proposals published under section 32, subject to the modifications made by regulation 2(2) and by paragraphs (3) and (4) below.

(2) Section 184(5) of the 1993 Act shall apply in relation to proposals approved under section 33 as so applied as it does in relation to proposals required to be implemented under section 183 of

(4) Section 168 is not in force at the date of the making of these Regulations.

that Act so as to enable the Secretary of State to modify such proposals at the request of the new governing body.

(3) In its application to hospital special schools the modification in section 33(4)(a) shall have effect in relation to the period of four months beginning with the date on which the governing body's resolution is passed.

(4) In section 34(3), for the words "as a county or voluntary school" in sub-paragraph (a) there shall be substituted "as a special school" and sub-paragraph (b) shall be omitted.

Exercise of power proposed date of implementation

7.—(1) Section 35 of and Schedule 4 to the 1993 Act shall apply where proposals are approved under section 33 of that Act as applied by these regulations as they apply where proposals are approved under section 33, subject to the following modifications.

(2) Paragraph 2(b) of Schedule 4 shall apply in relation to hospital special schools with the substitution of the words "property other than land" for the words "land and other property".

(3) In paragraph 5(1) of Schedule 4 for the words "transition to grant-maintained status" there shall be substituted the words "becoming a grant-maintained special school".

Expenses in connection with proposals to become a grant-maintained special school

8. Section 36 of the 1993 Act shall apply in relation to the exercise by a governing body of their functions under Chapter II of Part II of the 1993 Act as applied by these regulations.

PART 3

PROPERTY, STAFF AND CONTRACTS

Transfer of property etc

9. Section 38 of the 1993 Act shall apply in relation to a maintained special school in relation to which proposals for the school to become a grant-maintained special school are approved as it applies in relation to any school in relation to which proposals for acquisition of grant-maintained status are approved, subject to the modification that, in the case of a hospital special school, the words "used or" in subsection (2)(a) shall be omitted.

Transfer of staff

10.—(1) Subsections (2) to (4) and (6) to (9) of section 39 of the 1993 Act shall apply to any maintained special school where proposals for the school to become a grant-maintained special school have been approved in relation to the school; and, subject to subsection (3) of that section, apply to any person who, immediately before the date of implementation of the proposals—

(a) is employed by the local education authority to work solely at the school, or

(b) is employed by the local education authority to work at the school and is designated for the purposes of section 34 by an order made by the Secretary of State.

(2) In subsections (6) and (7) of section 39 as so applied, "former employer" means the local education authority; and for the words "grant-maintained school" there shall be substituted the words "grant-maintained special school."

Effect of pending procedure for acquisition of grant-maintained status on property disposals etc.

“Pending” procedure for becoming a grant-maintained special school

11.—(1) Subject to paragraph (2) below and to the modifications made by regulation 2(2), sections 40 to 46 of the 1993 Act shall apply in relation to a grant-maintained special school as they apply in relation to other schools.

(2) Section 40 shall apply in relation, to a hospital special school with the following modifications—

(a) For subsection (2) there shall be substituted—

“(2) For these purposes, that procedure is to be regarded as initiated in relation to a hospital special school on receipt by the local education authority of notice of a meeting of the governing body at which a motion for a resolution to apply for the school to become a grant maintained special school is to be considered.”

(b) For subsection (3) the shall be substituted—

“(3) For these purposes that procedure, as initiated on any occasion, is to be regarded as terminated—

(a) if—

(i) the meeting is not held, or

(ii) the meeting is held but the motion is not moved or, though the resolution is moved, the resolution is not passed,

(b) if proposals which are required to be published under section 32 of this Act, or any proposals required in substitution for those proposals, are rejected by the Secretary of State or are withdrawn, or

(c) on the date of implementation of such proposals.”

(c) Subsection (4) shall be omitted.

(d) In subsection (5), the words “by reference to the result of a ballot” and “without a further ballot” shall be omitted.

(e) In subsection (6), for “subsection (3)(c)” there shall be substituted “subsection (3)(b)”.

PART 4

ESTABLISHMENT OF NEW GRANT-MAINTAINED SPECIAL SCHOOLS

Service of notice of proposals

12. Where the funding authority intend to establish a grant-maintained special school under section 183(1) of the 1993 Act, the notice of their proposals required by section 183(3)(a) and (6) to be served on the Secretary of State shall also be served on—

(1) the local education authority in whose area the school is to be established;

(2) any local education authority whose area adjoins the area of that authority; and

(3) if the proposals will affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992(5) applies, the appropriate further education funding council (as defined in section 1(6) of that Act).

Information to be given

13. The notice referred to in regulation 12 shall give the following information—

(1) the number of initial governors proposed for the governing body, being such number as will secure that they out number the other governors;

(2) the number of parent and teacher governors proposed for the governing body being, in the case of parent governors for a primary school not less than three nor more than five and for a secondary school five, and in the case of teacher governors, being either one or two;

(3) the proposed term of office for the initial first governors (not being less than five nor more than seven years) and for the initial parent and teacher governors (being a period which expires no later than the end of the school's first term);

(4) the name under which it is proposed that the governing body should be incorporated under section 183(8) of the 1993 Act;

(5) the proposed incorporation date and the proposed date of implementation of the proposals;

(6) a brief description of the size and intended character of the school, and of the type of special educational provision which it is proposed should be made at the school;

(7) the name and address of a person from whom further information regarding the proposals may be obtained, and

(8) an explanation of the procedure for submitting objections to the proposals under section 184(2) of the 1993 Act, including the period within which such objections are to be submitted and the name and address of the person to whom they are to be submitted.

Exercise of powers and payment of grant before proposed date of implementation

14.—(1) Section 53(1) of the 1993 Act shall apply, where such proposals have been approved under section 184(4) of that Act, to require the powers conferred on the governing body by these regulations or by or under that Act to be exercised, until the date of implementation of the proposals, only for the purpose of or in connection with the conduct of the school on or after that date.

(2) Where proposals have been so approved, subsections (4) to (7) of section 53 of the 1993 Act shall apply with the following modifications—

(a) in subsection (4), for the words “or adopted under section 51” there shall be substituted the words “under section 184(4)”;

(b) in subsection (5), the words “(2) or” shall be omitted;

(c) in subsection (7)(b), the words “premises or” shall be omitted.

Initial governors for new grant-maintained special schools

15. Section 78 of the 1993 Act shall apply in relation to any governing body incorporated under section 183(8) of that Act as it applies to a governing body incorporated under Chapter IV of that Act.

PART 5

GOVERNMENT, CONDUCT ETC OF GRANT-MAINTAINED SPECIAL SCHOOLS

Powers of governing body

16. Section 68 of the 1993 Act, applied to grant-maintained special schools by paragraph 12 of Schedule 11 to that Act, shall have effect in relation to the governing body of a grant-maintained

special school subject, in the case of a grant-maintained special school established in a hospital, to the following modifications—

- (1) in subsection (5)(c), for the words “land and other property” there shall be substituted the words “property other than land”
- (2) in subsection (5)(f), the word “land” shall be omitted; and
- (3) subsection (7) shall be omitted.

Joint Schemes

17. Sections 69 and 70 of the 1993 Act shall apply to grant-maintained special schools as they do to grant-maintained schools to the intent that one or more grant-maintained special schools may enter into a joint scheme with one or more grant-maintained schools or grant-maintained special schools.

Determination and replacement of initial governors

18. Sections 71 to 76 of the 1993 Act shall apply in relation to proposals for a maintained special school to become a grant-maintained special school as they apply in relation to other proposals published or required to be published under section 32 of that Act, subject to the following modifications—

- (1) In section 73—
 - (a) in subsection (1), there shall be inserted after the words “county school” the words “or maintained special school”;
 - (b) subsections (2) and (7) to (9) shall be omitted; and
 - (c) in subsections (3) and (4), the references to subsection (2) shall be omitted.
- (2) In section 75—
 - (a) in subsection (1), there shall be inserted after the words “county school” the words “or maintained special school”
 - (b) subsections (2) and (3) shall be omitted; and
 - (c) in subsection (4) the reference to subsection (2) shall be omitted.

Saving for defects and interpretation of sections 68 to 79 of the 1993 Act

19. Sections 79 and 80 of the 1993 Act shall apply in relation to grant-maintained special schools and their government and conduct subject to the modifications made by regulation 2(2).

Power to make and deal with proposals in the case of a maintained special school eligible to become a grant-maintained special school

20. Section 273 of the 1993 Act shall apply in relation to proposals for the alteration and discontinuance of a maintained special school made under section 183(2) of that Act subject to the modifications made by regulation 2(2) and the following modifications—

- (1) In subsection (1), for the reference to section 12(1)(c) or (d) of the Education Act 1980 there shall be substituted a reference to section 183(2)(b) or (c) of the 1993 Act.
- (2) In subsection (2), for the reference to the publication of proposals under section 12 or 13 of the Act of 1980 there shall be substituted a reference to the service of notice of proposals under section 183(6) of the 1993 Act; and the words following “have been approved” shall be omitted.
- (3) In subsection (3), for the references in paragraphs (a) and (b) to the first publication of proposals under section 12 or 13 of the Act of 1980 there shall be substituted references to the service

of notices of proposals under section 183(6) of the 1993 Act; and the reference to the publication of proposals under section 272 of the 1993 Act shall be omitted.

(4) In subsection (4), paragraph (a) shall be omitted and, in paragraph (b), for the references to proposals under section 12 or 13 of the Act of 1980 or section 272 of the 1993 Act there shall be substituted references to proposals under section 183(2) of the 1993 Act.

(5) In subsection (5), for paragraphs (a) to (c) there shall be substituted—

“where there are proposals under section 183(2)(b) of this Act and the governing body incorporated under section 34 of this Act give their consent, he may approve them but shall otherwise reject them”.

(6) For subsection (6) there shall be substituted—

“(6) If in any case where subsection (5) above applies proposals under section 183(2)(b) are approved, the proposals shall be treated for the purposes of Part III of this Act as if they had been approved under section 184(4) of this Act; and section 185 of this Act shall apply accordingly.”

(7) Subsection (7) shall be omitted.

Governing bodies

21. Schedule 5 to the 1993 Act shall apply to the governing bodies of grant-maintained special schools subject to the modifications made by regulation 2(2) and the following modifications—

(1) In paragraph 1, in the definition of “school”, for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”.

(2) In paragraph 6—

(a) for subparagraph (1)(a) there shall be substituted

“(a) first governors, and”;

(b) in subparagraph (3)(a), the words “subject to paragraph (b) below” shall be omitted and for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”;

(c) subparagraph (3)(b) shall be omitted;

(d) in paragraph (4), the words “or foundation” shall be omitted.

(3) In paragraph 9(1) the words “any foundation governor (other than one holding office ex officio) and” and paragraph 9(2) shall be omitted.

(4) In paragraph 10(3) the words “initial foundation governor (other than a foundation governor who is a governor ex officio)” shall be omitted, and for the words “grant-maintained school” shall be substituted the words “grant-maintained special school”.

(5) In paragraph 12, for the words “Chapter V” and “that Chapter” there shall be substituted the words “Schedule 11” and “that Schedule” respectively.

Content of articles of government

22. Schedule 6 to the 1993 Act shall apply in relation to grant-maintained special schools as it applies in relation to grant-maintained schools, subject to the following modifications—

(1) In paragraph 1, in the definition of “school”, for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”.

(2) Paragraph 4 shall be omitted.

(3) In paragraph 5(1) the words “admissions of pupils to the school or” shall be omitted; and in paragraph 5(2) there shall be substituted for the words “grant-maintained schools” the words “grant-maintained special schools”.

(4) In paragraph 6, item (a) shall be omitted and in item (b) for the words “the admission of pupils to the school” there shall be substituted the words “the permanent exclusion of pupils from the school”.

Funding

23. Sections 81 to 95 of the 1993 Act shall apply to grant-maintained special schools and their governing bodies as they apply to grant-maintained schools and their governing bodies subject to the modification that, in section 85(5), paragraphs (a) and (b) and in paragraph (c) the words “in any other case” shall be omitted.

PART 6

ALTERATION AND DISCONTINUANCE OF GRANT-MAINTAINED SPECIAL SCHOOLS

Alterations for which notice must be served

24. The following are prescribed as alterations of a grant-maintained special school for which notice of proposals must be served under section 183(6) of the 1993 Act—

- (1) any change in the number, age range or sex of the day or boarding pupils for which the school makes provision;
- (2) any change in the type of special educational needs for which the school makes provision or the type of special educational provision made by the school;
- (3) any significant enlargement of the premises of the school;
- (4) any transfer of the school to a new site unless at the time of transfer the school is intended to return to the existing site within three years.

Confirmation of decision

25. Section 96(8) of the 1993 Act (which requires a decision of a governing body that will result in proposals for alteration to their school to be confirmed at a second meeting) shall apply to the governing body of a grant-maintained special school with the substitution for the words “under this section” of the words “under section 183(4) of this Act”.

Service of notice of proposals

26. Where the funding authority are required to serve notice of their proposals to establish, alter or discontinue a grant-maintained special school under section 183(6) of the 1993 Act, or the governing body of such a school are required to serve notice of their proposals to alter or discontinue their school, they shall, in addition to serving notice on the Secretary of State, serve notice on—

- (a) the local education authority in whose area the school is or is proposed to be situated and, in the case of a transfer of the school to a new site in the area of another local education authority, that authority;
- (b) every local education authority whose area adjoins the area of a local education authority mentioned in subparagraph (a);

- (c) if the proposals will affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992(6) applies, the appropriate further education funding council (as defined in section 1(6) of that Act);
- (d) where the proposals are to alter or discontinue a grant-maintained special school, the governing body of the school (where the notice is served by the funding authority) and every local education authority (in addition to those prescribed above) who maintain a statement under section 168 of the 1993 Act in respect of a registered pupil at the school;
- (e) the governing body of every grant-maintained special school in the area of the local education authority in whose area the school is (and, in the case of a new school or a transfer to a new site is proposed to be) situated;
- (f) where the proposals are to discontinue a grant-maintained special school, every parent of a registered pupil at the school; and
- (g) where the notice is served by a governing body, the funding authority.

Information to be given in notice

27. Every notice served under section 183(6) of the 1993 Act shall give the following information—

- (a) the numbers, age group, sex and special educational needs of the pupils (distinguishing boarding and day pupils) for whom provision is currently made or, in the case of a proposed school, is proposed;
- (b) the special educational provision currently made or, in the case of a proposed school, proposed;
- (c) particulars of any alteration proposed, including particulars and location of any new site to which it is proposed to transfer the school;
- (d) the proposed date of implementation of the proposals, if approved;
- (e) the name and address of a person from whom further information regarding the proposals may be obtained;
- (f) an explanation of the procedure for submitting objections to the proposals under section 184(2) of the 1993 Act, including the period within which such objections are to be submitted and the name and address of the person to whom they are to be submitted;
- (g) the name of the body by whom the notice is served and the date on which it is given.

Proposals for alteration approved before school becomes grant-maintained

28. Section 102 of the 1993 Act (which provides for the case where proposals published by a local education authority for the alteration of a school which acquires grant-maintained status have been approved but not implemented before the incorporation date) shall apply to a maintained special school which becomes a grant-maintained special school with the following modifications—

(1) For subsection (1)(a), there shall be substituted—

“(a) proposals for a prescribed alteration of a maintained special school have been approved under section 184 of this Act, and”.

(2) In subsection (1)(b), for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”.

(3) For subsection (2), there shall be substituted—

“(2) The proposals—

- (a) shall be treated for the purposes of Part III of the Education Act 1993 as if notice of them had been given under section 183(6) and they had been approved under section 184 of that Act, and
 - (b) shall be implemented in accordance with any particulars approved under section 185 of that Act”
- (4) Subsection (3) shall be omitted.

Approval and adoption of proposals by funding authority

29. Where notice of proposals for alteration to a grant-maintained special school has been served by the funding authority pursuant to section 183(3)(b) of the 1993 Act, subsections (2), (4) and (5) of section 98 of the 1993 Act shall apply in relation to those proposals as they do to proposals published under section 97 of that Act, subject to the modification that, in section 98(2)(b), there shall be substituted for the reference to subsection (7) of section 97 a reference to subsection (2) of section 184.

Discontinuance

30. Section 104 of the 1993 Act shall apply where the governing body of a grant-maintained special school intend to discontinue the school as it does to the governing body of a grant-maintained school, subject to the following modifications—

- (1) In subsection (1), for references to publishing proposals under section 104, there shall be substituted references to serving notice of proposals under section 183(6) of that Act.
- (2) In subsection (4), for the word “publish” there shall be substituted the words “serve notice of their”; and the words following “school” shall be omitted.
- (3) In subsections (5) and (6), the word “published” shall be omitted; and in subsection (6)(b) for the words “subsection (7) below” there shall be substituted “section 184(2) of this Act”.
- (4) Subsection (7) shall be omitted.

Accompanying statement

31. Section 105(5) of the 1993 Act shall apply to proposals of which notice is given pursuant to section 183(3)(c) of that Act as they do to proposals published under section 104, subject to the modification that, for the reference to subsection (6) of section 105 there shall be substituted a reference to subsection (2) of section 184.

Approval and adoption of proposals by funding authority

32. Where notice of proposals to discontinue a grant-maintained special school has been served by the funding authority pursuant to section 183(3)(c) of the 1993 Act, subsections (2), (5) and (6) of section 106 of the 1993 Act shall apply in relation to those proposals as they do in relation to proposals published under section 105 of that Act, subject to the modification that, in subsection 106(2)(b), there shall be substituted for the reference to subsection (6) of section 105 a reference to subsection (2) of section 184.

Withdrawal of grant, winding up and disposal of property

33. Sections 109 to 116 of the 1993 Act shall apply in relation to grant-maintained special schools as they do in relation to grant-maintained schools subject to the modifications made by regulation 2(2) and to the following modifications—

- (1) In section 111—

- (a) for the reference in subsection (1)(a) to section 106 there shall be substituted a reference to section 184 or section 106 as modified by regulation 33;
 - (b) in its application to a grant-maintained special school established in a hospital, subsection (4)(a) shall be omitted, and in subsection (4)(c) the words “(other than land)” shall be inserted after “property”; and
 - (c) subsection (7) shall be omitted.
- (2) In section 115, subsection (4) to (6) shall be omitted.

PART 7

MISCELLANEOUS

Provision of further education in grant-maintained special schools

34. Section 128 of the 1993 Act shall apply to the governing body of a grant-maintained special school as it applies to the governing body of a grant-maintained school.

Provision of benefits and services by local education authority

35. Section 129 of the 1993 Act shall apply in relation to pupils and other persons receiving education at grant-maintained special schools as it does in relation to those at grant-maintained schools.

Disposal of premises

36. Sections 131, 132, 134(1) and 135 of the 1993 Act shall apply in relation to grant-maintained special schools (other than such schools established in a hospital) and the premises of such schools as they do in relation to grant-maintained schools and their premises subject to the following modifications—

(1) In section 131(1)(b) the words “or any trustees of the school” and, in the words which follow, the words “or (as the case may be) the trustees or their successors” shall be omitted.

(2) In section 135, subsection (2) and, in subsections (3) and (4), the words “or trustees” wherever they occur shall be omitted.

Modification of instruments

37. Section 136 of the 1993 Act shall apply in relation to grant-maintained special schools as it does in relation to grant-maintained schools, subject to the modifications made by regulation 2(2).

Religious opinions etc.of staff

38. Section 143(2) to (4) of the 1993 Act shall apply in relation to a grant-maintained special school.

Supplementary

39. Sections 152 and 154 of the 1993 Act (manner of giving notification to governing body and inspection of accounts and reports to Parliament) shall apply in relation to grant-maintained special schools and their governing bodies as they apply in relation to grant-maintained schools and their governing bodies.

Policy on sex education

40. In relation to pupils who are provided with secondary education at a grant-maintained special school, section 241(5) of the 1993 Act(7) shall apply in relation to the governing body of such a school as it applies in relation to the governing body of a grant-maintained school.

Functions of the School Curriculum and Assessment Authority

41. Section 245 of the 1993 Act shall apply in relation to a grant-maintained special school which is not established in a hospital as it applies in relation to a grant-maintained school.

Application of other enactments

42.—(1) The enactments mentioned in the Schedule to these Regulations shall have effect in relation to grant-maintained special schools and the governing bodies of such schools as they have effect in relation to grant-maintained schools and their governing bodies with the modifications made by that Schedule.

(2) For the purposes of the Education (School Premises) Regulations 1981(8) a grant-maintained special school shall be regarded as a special school, save that regulation 3(3) of those Regulations shall apply in relation to a grant-maintained special school as it does in relation to a grant-maintained school.

(3) For the purposes of the School Teachers' Pay and Conditions Document 1993(9), given effect by the Education (School Teachers' Pay and Conditions) (No.2) Order 1993(10), references in that Document to a grant-maintained school shall include a grant-maintained special school; and such a school shall be regarded as a special school for the purposes of that Document.

(7) Section 241 is not in force at the date of the making of these Regulations.

(8) [S.I.1981/909](#), amended by [S.I.1989/1277](#), [1990/2351](#) and [1993/559](#).

(9) ISBN 0 11 270843 9.

(10) [S.I.1993/1755](#).

THE SCHEDULE

ENACTMENTS APPLYING TO GRANT-MAINTAINED SPECIAL SCHOOLS

PART I

—PRIMARY LEGISLATION

The provisions listed in the second column below of the enactments mentioned in the first column shall have effect in relation to grant-maintained special schools and their governing bodies as they have effect in relation to grant-maintained schools and their governing bodies with the modifications mentioned in the third column

Enactment	Provision	Modification
Education Act 1944 (c. 31)(11)	Sections 10 (school premises), 48(4) (medical and dental inspection and treatment), 54 (power to ensure cleanliness), 55(4) (non-discriminatory provision of transport and other facilities), 62(1) (duty of Secretary of State as to the training of teachers), 67(4) (determination of questions), 68 (as applied by section 219 (2) of the Education Reform Act 1988) (power to prevent unreasonable exercise of functions), 80(1) (registration of pupils), and 99(1) and (2) (as applied by section 219(3) of the Education Reform Act 1988) (powers of Secretary of State in default of governors)	
Education (Miscellaneous Provisions) Act 1948 (c. 40)(12)	Section 5(1) and (3) (provision of clothing)	

(11) References to grant-maintained schools were inserted by Schedule 12 to the Education Reform Act 1988 (c. 40) in sections 10, 48(4), 62(1), 67(4) and 80(1), and in section 54 by paragraph 14 of Schedule 19 to the Education Act 1993 (c. 35). Section 55(4) was substituted by Schedule 8 to the Further and Higher Education Act 1992 (c. 13). In addition, section 10 was amended by section 7(1) of the Education (Miscellaneous Provisions) Act 1948 (c. 40) and section 3(3) of the Education Act 1968 (c. 17). Section 48(4) was amended by Schedule 4 to the National Health Service Reorganisation Act 1973 (c. 32) and Schedule 15 to the National Health Service Act 1977 (c. 49). Section 54 was amended by section 179(3) of the Local Government Act 1972 (c. 70), section 37(1) of the Criminal Justice Act 1982 (c. 48) and Schedule 13 to the Education Reform Act 1988. Section 62(1) was amended by Schedule 8 to the Further and Higher Education Act 1992. Section 67(4) was substituted by Schedule 1 to the Education Act 1968. Section 68 was amended by Schedule 2 to the Education Act 1946 (c. 50), Schedule 30 to the Local Government Act 1972 and Schedule 1 to the Education Act 1980 (c. 20). Section 80(1) was amended by Schedule 2 to the Education (Miscellaneous Provisions) Act 1948 and Schedule 1 to the Education Act 1980. Section 99(1) and (2) were amended by Schedule 1 to the Education Act 1980.

(12) Sections 5(1) and (3) have been amended by Schedule 1 to the Education (Miscellaneous Provisions) Act 1953 (c. 33), section 29 of the Education Act 1980 (c. 20), Schedule 3 to the Education Act 1981 (c. 60), section 100(4) of and Schedule 12 to the Education Reform Act 1988 (c. 40) and Schedule 8 to the Further and Higher Education Act 1992 (c. 13).

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Enactment	Provision	Modification
Local Authorities (Goods and Services) Act 1970 (c. 39)(13)	The whole Act (supply of goods and services by local authorities to public bodies) as extended by paragraph 11 of Schedule 12 to the Education Reform Act 1988	The extension of these provisions to the governing bodies of(13) grant-maintained special schools shall have effect as if made by an order under section 1(5) of the Local Authorities (Goods and Services) Act 1970.
Local Government Act 1972 (c. 70)(14)	Section 134(1) and (2) (use of school room etc. in parish or community)	
Education (Work Experience) Act 1973 (c. 23)(15)	Section 1(1) (Work experience in last year of compulsory schooling)	
Sex Discrimination Act 1975 (c. 75)(16)	Sections 22 (discrimination by bodies in charge of educational establishments), and 25 (general duty in public sector of education)	
Race Relations Act 1976 (c. 74)(17)	Sections 17 (discrimination by bodies in charge of educational establishments), and 19 (general duty in public sector of education)	
National Health Service Act 1977 (c. 49)(18)	Sections 5(1) to (1B), paragraph 3 of Schedule 1 (medical and dental inspection and treatment of pupils) and paragraph 1(1) of Schedule 8 (care of mothers and young children)	
Employment Protection (Consolidation) Act 1978 (c. 44)(19)	Section 29(1) (time off for public duties)	

(13) The amendments made to this Act are not material to its application under this Schedule.

(13) The amendments made to this Act are not material to its application under this Schedule.

(14) Sections 134(1) and (2) were amended by Schedule 12 to the Education Reform Act 1988 (c. 40).

(15) Section 1(1) was amended by Schedule 12 to the Education Reform Act 1988.

(16) In section 22 paragraph 3A of the Table, and in section 25 a reference to that paragraph, were inserted by Schedule 12 to the Education Reform Act 1988.

(17) In section 17 paragraph 3A of the Table, and in section 19 a reference to that paragraph, were inserted by Schedule 12 to the Education Reform Act 1988.

(18) Section 5(1) was amended, and subsections (1A) and (1B) inserted, by section 10(1) of and Schedule 3 to the Health and Medicines Act 1988 (c. 49) and Schedule 12 to the Education Reform Act 1988, which also amended paragraph 3 of Schedule 1 and paragraph 1(1) of Schedule 8.

(19) Section 29(1) was amended by Schedule 12 to the Education Reform Act 1988.

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Enactment	Provision	Modification
Education Act 1980 (c. 20)(20)	Section 22(3A) and (3B) (provision of milk, meals and other refreshment)	
Local Government (Miscellaneous Provisions) Act 1982 (c. 30)(21)	Section 40 (nuisance and disturbance on educational premises)	
Education (No.2) Act 1986 (c. 61)(22)	Sections 46A (application of provisions relating to politics and sex education) and 62 (access to documents and information)	
Education Reform Act 1988 (c. 40)(23)	In Chapter 1 of Part I (the curriculum) sections 1, 2 (other than subsection (1) (a)), 5, 9(1) and (1A), 10(2) and (3), 14(3), 16, 17A, 19, 22 and 25. Sections 106 to 111 (charges and recovery of examination fees), 117 (entry for prescribed examinations), 118 (charges: supplementary), 197(7) (information for Education Assets Board), 211 (grants under-section 11, Local Government Act 1966, 220 (extension of functions of Audit Commission), and 221 (avoidance of certain contractual terms).	In relation to grant-maintained schools established in a hospital these provisions shall not apply. For the reference in section 109(3) to section 57(5) of the Education Reform Act 1988 there shall be substituted a reference to section 68(8) of the Education Act 1993. For the date “20th November 1987” in section 221(1) there shall be substituted “1st April 1994”.
Children Act 1989 (c. 41)(24)	Paragraph 3 of Schedule 9 (exemption from registration under section 71 (child minding and day care))	

(20) Section 22(3A) and (3B) were inserted by Schedule 12 to the Education Reform Act 1988 and Schedule 8 to the Further and Higher Education Act 1992.

(21) Section 40 was amended by section 37(3) of the Criminal Justice Act 1982 (c. 48) and Schedule 12 to the Education Reform Act 1988.

(22) Section 46A was inserted and section 62 amended by Schedule 12 to the Education Reform Act 1988.

(23) Sections 2 and 117 were amended by section 240 of the Education Act 1993 (c. 35). Section 9(1A) was inserted by section 12 of the Further and Higher Education Act 1992. Sections 14(3) and 16 were amended by Schedule 15 to the Education Act 1993 and section 16 by Schedule 19 to that Act. Section 17A is inserted by section 241 of that Act, which was not in force at the date of making these Regulations. Section 19 is amended by paragraph 121 of Schedule 19 to the Education Act 1993, which was not in force at the date of making these Regulations. Section 22 was amended by paragraph 123 of that Schedule. Section 25 was amended by Schedule 21 to the Education Act 1993. Sections 106, 110 and 111 were amended by Schedules 19 and 21 to that Act. Section 197(7) was amended by section 47(5) of that Act. Section 211 was amended by Schedule 8 to the Further and Higher Education Act 1992 and section 11 of the Local Government Act 1966 (c. 42) was substituted by the Local Government (Amendment) Act 1993 (c. 27). An amendment is made to section 220 by section 10(4) of the Education Act 1993.

(24) Paragraph 3 of Schedule 9 was amended by paragraph 153 of Schedule 19 to the Education Act 1993.

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Enactment	Provision	Modification
Environmental Protection Act 1990 (c. 43)	Section 98(2) (litter—definition of “educational institution”)	
School Teachers' Pay and Conditions Act 1991 (c. 49)(25)	The whole Act	
Further and Higher Education Act 1992 (c. 13)	Sections 5(4) (exclusion of certain grants for provision of further education to persons with learning difficulties), 16(2) (grant-maintained schools which may be conducted by a further education corporation), and 54(1) (duty to give information to further education funding council)	
Education (Schools) Act 1992(c. 38)	Section 16(7) (provision of information)	
Charities Act 1993 (c. 10)	Schedule 2 (exempt charities)	

PART II

—SUBORDINATE LEGISLATION

A.

Applying to all grant-maintained special schools

The Regulations mentioned below shall have effect in relation to grant-maintained special schools and their governing bodies as they have effect in relation to grant-maintained schools and their governing bodies.

Regulations

The Education (School Teacher Appraisal) Regulations 1991(26)

The Education (Further Education in Schools) Regulations 1993(27)

B.

Applying to grant-maintained special schools not established in a hospital

The instruments mentioned in the left-hand column shall have effect in relation to grant-maintained special schools which are not established in a hospital and the governing bodies of such schools as

(25) Section 2 was amended by paragraph 161 of Schedule 19 to the Education Act 1993 and section 3A inserted by section 289 of that Act.

(26) S.I.1991/1511.

(27) S.I.1993/1987.

they have effect in relation to grant-maintained schools and their governing bodies subject to the modifications mentioned in the right-hand column.

Instrument	Modification
The Education (School Hours and Policies) (Information) Regulations 1989 (28)	In regulation 2(1), in the definition of “governors' report”, for the words “section 58(5)(j) of the Act” there shall be substituted the words “required by the school’s articles of government to be prepared once in every school year.”
The Education (School Curriculum and Related Information) Regulations 1989 (29)	In regulation 4(1) for the words “section 58(5) (j) of the 1988 Act” there shall be substituted the words “required by the school’s articles of government to be prepared once in every school year.”
The Education (National Curriculum) (Temporary Exceptions for Individual Pupils) Regulations 1989 (30)	
The Education (School Records) Regulations 1989 (31) , regulation 9(a)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in History) (England) Order 1991 (32)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in Geography) (Wales) Order 1991 (33)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in History) (Wales) Regulations 1991 (34)	
The Education (School Curriculum and Related Information) (Wales) Regulations 1991 (35)	In regulation 8(1) for the words “section 58(5) (j) of the 1988 Act” there shall be substituted the words “required by the school’s articles of government to be prepared once in every school year”; and in regulation 9(1) for the words “section 58(2) of the Education Reform Act 1988” there shall be substituted “paragraph 1 of Schedule 11 to the Education Act 1993”.
The Education (National Curriculum) (Attainment Targets and Programmes of	

(28) [S.I.1989/398](#).

(29) [S.I.1989/954](#), to which there are relevant amendments in [S.I.1991/1582](#) and revocations in [S.I.1991/1278](#) and [1992/1089](#).

(30) [S.I.1991/181](#).

(31) [S.I.1989/1261](#); regulation 9(a) was substituted in relation to England by [S.I.1992/1089](#) and in relation to wales by [S.I.1992/1205](#).

(32) [S.I.1991/681](#).

(33) [S.I.1991/751](#).

(34) [S.I.1991/752](#), amended by [S.I.1991/1668](#).

(35) [S.I.1991/1658](#), amended by [S.I.1991/1813](#) and [1993/998](#).

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Instrument	Modification
Study in Geography) (England) (No.2) Order 1991 (36)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in Modern Foreign Languages) Order 1991 (37)	
The Education (National Curriculum) (Exceptions in History and Geography at Key Stage 4) Regulation 1992 (38)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in Music) (England) Order 1992 (39)	
The Education (National Curriculum) (Attainment Targets and Programme of Study in Art) (England) Order 1992 (40)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in Art) (Wales) Order 1992 (41)	
The Education (National Curriculum) (Attainment Targets and Programmes of Study in Music) (Wales) Order 1992 (42)	
The Education (National Curriculum) (Assessment Arrangements for English, Mathematics, Science, Technology, History and Geography) (Key Stage 1) Order 1992 (43)	
The Education (School Performance Information) (Wales) Order 1992 (44)	In regulation 7 for the reference to section 58(5)(j) of the Education Reform Act 1988 there is substituted a reference to the school's articles of government, and in regulation 8 the words "pursuant to section 58(5)(j) of the 1988 Act" are omitted.
The Education (Individual Pupils' Achievements) (Information) (Wales) Regulations 1993 (45)	
The Education (School Information) (England) Regulations 1993 (46) "	In the definition of "local average figures" there shall be inserted after regulation 3(1) "grant-maintained schools" the words "grant-

(36) [S.I.1991/2562.](#)

(37) [S.I.1991/2563.](#)

(38) [S.I.1992/156.](#)

(39) [S.I.1992/597.](#)

(40) [S.I.1992/598.](#)

(41) [S.I.1992/757.](#)

(42) [S.I.1992/758.](#)

(43) [S.I.1992/1857.](#)

(44) [S.I.1992/2274.](#)

(45) [S.I.1993/835.](#)

(46) [S.I.1993/1502](#), to which there are amendments not relevant to regulation 3(1).

Instrument	Modification
	maintained special schools (other than those established in a hospital)”
The Education (School Performance Information) (England) (No.2) Regulations 1993(47)	
The Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 1) (Wales) Order 1993(48)	
The Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 3) (Wales) Order 1993(49)	
The Education (Acquisition of Grant-Maintained Status) (Transitional Functions) Regulations 1993(50)	
The Education (Individual Pupils' Achievements) (Information) Regulations 1993(51)	

7th March 1994

John Patten
Secretary of State for Education

10th March 1994

John Redwood
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations provide for special schools maintained by local education authorities to become grant-maintained special schools, for the establishment of new grant-maintained special schools by a funding authority, for the alteration and discontinuance of grant-maintained special schools, and for their government, conduct and funding. Relevant provisions of the Education Act 1993 and other enactments are applied, with or without modification, for these purposes.

(47) [S.I.1993/2077](#).

(48) [S.I.1993/2190](#).

(49) [S.I.1993/2191](#).

(50) [S.I.1993/3072](#).

(51) [S.I.1993/3182](#).

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