
STATUTORY INSTRUMENTS

1999 No. 2323 (c. 59)

EDUCATION, ENGLAND AND WALES

**The School Standards and Framework Act
1998 (Commencement No. 7 and Saving
and Transitional Provisions) Order 1999**

Made - - - - 13th August 1999

In exercise of the powers conferred by sections 138(7) and 145(3) of the School Standards and Framework Act 1998(1), the Secretary of State for Education and Employment hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the School Standards and Framework Act 1998 (Commencement No. 7 and Saving and Transitional Provisions) Order 1999.

(2) In this Order—

“the 1996 Act” means the Education Act 1996(2); and

“the 1998 Act” means the School Standards and Framework Act 1998.

Commencement of the 1998 Act

2.—(1) The provisions of the 1998 Act specified in Schedule 1 to this Order shall come into force on 1st September 1999.

(2) The provisions of the 1998 Act specified in Schedule 2 to this Order shall come into force on 1st November 1999.

(3) The provisions of the 1998 Act specified in Schedule 3 to this Order shall come into force on 1st January 2000.

(4) The provisions of the 1998 Act specified in Schedule 4 to this Order shall come into force on 1st August 2000.

(1) 1998 c. 31.
(2) 1996 c. 56.

Transitional and saving provisions

3. The transitional and saving provisions in Schedule 5 to this Order (relating to transfer of control agreements) shall have effect.

4. The transitional and saving provisions in Schedule 6 to this Order (relating to exclusion of pupils) shall have effect.

5. The transitional and saving provisions in Schedule 7 to this Order (relating to school government) shall have effect.

Transitional provisions relating to section 138 of the 1996 Act

6.—(1) An agreement or determination in force under section 138 of the 1996 Act (advisory rights of chief education officer: aided schools) immediately before 1st September 1999 shall on and after that date have effect as if made under paragraph 2 of Schedule 17 to the 1998 Act notwithstanding that it was not framed by reference to the rights conferred on the chief education officer by that Schedule.

(2) Any disagreement between a governing body and a local education authority as to which rights are conferred on the chief education officer by virtue of paragraph (1) above shall be determined by the Secretary of State.

(3) An agreement or determination to which paragraph (1) refers may be withdrawn—

- (a) in the case of an agreement, in accordance with paragraph 2(5) of Schedule 17; and
- (b) in the case of a determination of the Secretary of State, in accordance with paragraph 2(6) of that Schedule.

Savings provisions relating to sections 201, 204, 205, 207, 208 and 567 of the 1996 Act

7. In articles 10, 11 and 12 below “local authority” means a county council, a county borough council, a district council, a London borough council or the Common Council of the City of London.

8. The repeal of section 201 of the 1996 Act is without prejudice to the continued application of section 201(10) to any property, rights or liabilities to which section 201(1) applied immediately before 1st September 1999.

9. The repeal of section 204 of the 1996 Act is without prejudice to the continued application of that section where the procedure for acquisition of grant-maintained status is deemed to be still pending in relation to a school by virtue of section 204(3).

10. The repeal of section 205 of the 1996 Act is without prejudice to the continued application of that section where a local authority have made a disposal, or entered into a contract, in contravention of section 204(1) of the 1996 Act—

- (a) before 1st September 1999; or
- (b) during any period when the procedure for acquisition of grant-maintained status is deemed to be still pending in relation to the school by virtue of section 204(3) of the 1996 Act.

11. The repeal of section 207 of the 1996 Act is without prejudice to the continued application of that section where a local authority have entered into a contract to which section 206 applied in contravention of that section before 1st September 1999.

12. The repeal of section 208 of the 1996 Act is without prejudice to the continued application of subsections (4) and (5) of that section where a local authority have, in relation to any property, taken any action in contravention of subsection (1) of that section before 1st September 1999.

13. The repeal of section 567 is without prejudice to the continued application of subsections (1) and (5) to transfers effected under section 201 (taken with section 198 of, and Schedule 10 to, the Education Reform Act 1988⁽³⁾).

Saving provisions relating to sections 60 and 61 of the 1996 Act

14. Notwithstanding the repeal of section 60 of the 1996 Act, subsections (4) to (7) of that section shall continue to have effect in relation to an interest in premises conveyed under that section prior to 1st September 1999.

15. Notwithstanding the repeal of section 61 of the 1996 Act, subsections (4) to (6) of that section shall continue to have effect in relation to a new site provided for a school under that section prior to 1st September 1999.

Saving provisions relating to sections 274 to 279 of the 1996 Act

16.—(1) Notwithstanding the repeal of Chapter VIII of Part III of the 1996 Act, sections 274 to 279 of the 1996 Act (winding up and disposal of property) and those sections as applied by regulation 33 of the Education (Grant-maintained Special Schools) Regulations 1994⁽⁴⁾ shall continue to have effect for the purposes of winding up and disposing of the property of a grant-maintained school or grant-maintained special school subject to discontinuance proposals, in cases where the governing body have not been dissolved before 1st September 1999.

(2) For the purposes of paragraph (1), “discontinuance proposals” means—

- (a) in the case of a grant-maintained school, proposals for the discontinuance of the school published under section 267 or 268 of the 1996 Act before 1st September 1999; and
- (b) in the case of a grant-maintained special school, proposals for the discontinuance of the school published under section 339 of that Act before 1st September 1999.

Saving provision relating to exemption from building regulations

17. Where particulars of premises or proposed premises are approved on or after 1st September 1999 under—

- (a) section 214 of the 1996 Act as that section continues to have effect by virtue of regulation 2 of the School Standards and Framework Act 1998 (Proposals under section 211 of the Education Act 1996) (Transitional Provisions) Regulations 1998⁽⁵⁾ or
- (b) section 39, 44, 262 or 341 of the 1996 Act as those sections continue to have effect by virtue of regulation 8 or 14 of the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999⁽⁶⁾,

section 4(1)(a) of the Building Act 1984⁽⁷⁾ (exemption of education buildings from building regulations) shall have effect as if the repeal of the provisions in that subsection made by Schedule 31 to the 1998 Act had not come into force.

(3) 1988 c. 40.

(4) S.I. 1994/653, amended, in ways not relevant to this Instrument, by S.I. 1994/1231, 1994/2003, 1996/111, 1996/2303, 1997/996 and 1997/2175. Regulation 33 of S.I. 1994/653 applies the predecessor statutory provisions to sections 274 to 279 of the 1996 Act under the Education Act 1993 (c. 35) to grant-maintained special schools. Those Regulations continue to have effect by virtue of paragraph 1 of Schedule 39 to the 1996 Act.

(5) S.I. 1998/3172.

(6) S.I. 1999/704.

(7) 1984 c. 55.

Miscellaneous saving provisions

18. Notwithstanding the amendment to section 5(3) of the 1996 Act by paragraph 59(a) of Schedule 30 to the 1998 Act, a school in respect of which proposals authorised by section 49, 198(6) or 291 of the 1996 Act are implemented shall continue to be a middle school.

19. Notwithstanding the repeal of section 573(4) to (6) of the 1996 Act (meaning of expressions relating to alteration etc of premises or character of schools)—

- (a) Section 573(4) to (6) of the 1996 Act shall continue to apply in relation to any proposals published under section 35(1)(c), 41(2), 259(1) or 260(2) of that Act before 1st September 1999; and
- (b) section 573(6) of the 1996 Act, as applied by regulation 42 of and the Schedule to the Education (Grant-maintained Special Schools) Regulations 1994, shall continue to apply in relation to any proposals notice of which is served under section 339 of that Act before 1st September 1999.

20. The repeal of section 310 of the 1996 Act is without prejudice to the inspection of the accounts of the governing body of any former grant-maintained or grant-maintained special school in relation to any period before 1st September 1999.

21. The repeal of section 539 of the 1996 Act shall not relieve the governing body of a school which was a grant-maintained school from the duty to publish information, or to make reports and returns and to give information in accordance with that section in relation to the period during which the school was grant-maintained.

22. The repeal of paragraphs 61 to 64 of Schedule 8 to the Further and Higher Education Act 1992⁽⁸⁾ (supplementary provisions with respect to transfers) is without prejudice to the continued application of—

- (a) paragraphs 62 to 64 of that Schedule; and
- (b) the Education Transfer Council (Transfers under the Education Reform Act 1988) Regulations 1992⁽⁹⁾, to transfers to which the said paragraphs 62 to 64 applied immediately before 1st September 1999.

23.—(1) The repeal of section 179 of the 1996 Act (variation of trust deeds etc by order) is without prejudice to the operation of any modification to any trust deed or other instrument made by order of the Secretary of State under that section.

(2) The repeal of section 302 of the 1996 Act (variation of trust deeds etc by order) is without prejudice to the operation of any modification to any trust deed or other instrument made by order of the Secretary of State under that section.

David Blunkett
Secretary of State for Education and
Employment

13th August 1999

⁽⁸⁾ 1992 c. 13.

⁽⁹⁾ S.I. 1992/1348 as amended by S.I. 1993/3114 and section 136(2) of the 1998 Act.

SCHEDULE 1

PROVISIONS COMING INTO FORCE ON 1st SEPTEMBER 1999

- Section 16 in so far as it is not already in force.
- Section 22.
- Section 23.
- Section 27.
- Section 28 in so far as it is not already in force.
- Section 29 in so far as it is not already in force.
- Section 30.
- Section 31 in so far as it is not already in force.
- Section 32.
- Section 33 in so far as it is not already in force.
- Section 34.
- Sections 36 to 38 in so far as they are not already in force.
- Section 39(2) and (3).
- Section 40.
- Section 41.
- Sections 42 to 44 in so far as they are not already in force.
- Sections 54 and 55 in so far as they are not already in force.
- Section 56.
- Sections 58 to 61.
- Sections 64 and 65.
- Section 66 in so far as it is not already in force.
- Section 67 in so far as it is not already in force.
- Section 68.
- Section 69 in so far as it is not already in force.
- Section 70.
- Section 71 in so far as it is not already in force.
- Sections 75 and 76.
- Sections 78 to 80.
- Section 83.
- Section 104 in so far as it is not already in force.
- Section 109 in so far as it is not already in force.
- Section 125 in so far as it is not already in force.
- Section 126.
- Section 131.
- Section 140 in so far as it is not already in force.
- Schedule 3.
- Schedule 4 in so far as it is not already in force.

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Schedule 6 in so far as it is not already in force.

Schedule 7.

Schedules 9, 10, 11 and 12 in so far as they are not already in force.

Schedule 13.

Schedule 16 in so far as it is not already in force.

Schedule 17 in so far as it is not already in force.

Schedule 18 in so far as it is not already in force.

Schedule 19 in so far as it is not already in force.

Schedule 20.

Schedule 21.

Schedule 22.

Schedule 27 in so far as it is not already in force.

In Schedule 28, Part II.

In Schedule 30—

paragraph 1;

paragraph 4 in so far as it is not already in force;

paragraphs 5 to 13;

paragraph 15;

paragraphs 17 to 19;

paragraph 21;

paragraph 22;

paragraph 23;

paragraph 25;

paragraph 26 in so far as it is not already in force;

paragraph 27;

paragraph 28⁽¹⁰⁾;

paragraphs 29 to 32;

paragraphs 34 to 39;

paragraphs 41 to 46;

paragraph 47 in so far as it is not already in force;

paragraph 49;

paragraph 50;

paragraph 51;

paragraph 52 in so far as it is not already in force;

paragraph 53;

paragraph 54 in so far as it is not already in force;

paragraph 55;

(Education Act 1996) (General)

⁽¹⁰⁾ Paragraph 28 was amended by S.I. 1999/638.

paragraphs 58, 59, 60;

paragraphs 62 and 63;

(Schools maintained by local education authorities)

paragraph 69 in so far as it is not already in force;

(Grant-maintained schools)

paragraph 70 to the extent that it relates to the omission of Chapters I to V, section 252 and VII to X of Part III to the 1996 Act;

(Special educational needs)

paragraphs 71, 72, 73, 74, 75 in so far as it is not already in force, 76, 77(a), 78, 79, 80, 81 in so far as it is not already in force, 82, 83 in so far as it is not already in force, 84;

(The Curriculum)

Paragraphs 85, 86, 89 and 90;

Paragraph 91 in so far as it is not already in force;

Paragraphs 92 to 95, 97 to 102, 103(a), 104, 105;

Paragraph 106 in so far as it is not already in force;

Paragraph 107;

(School Admissions, Attendance and Charges)

Paragraphs 111 to 113;

Paragraph 114, except to the extent that sub-paragraph (b) substitutes a new subsection 5(b) in section 438 of the 1996 Act;

Paragraph 115;

Paragraph 116, except to the extent that sub-paragraph (b) substitutes a new paragraph (b) in section 440(3) of the 1996 Act;

Paragraphs 117 to 124;

Paragraph 127;

(Part IX: Ancillary Functions)

Paragraphs 129, 130 and 131;

Paragraph 132 in so far as it is not already in force;

Paragraphs 133(a), 134, 135, 136;

Paragraphs 140 to 147;

Paragraphs 149 to 152;

Paragraphs 154, 156, 157;

(Part X: Miscellaneous and General)

Paragraphs 158, 160(b), 161, 162, 163, 164, 165, 166;

Paragraph 167 in so far as it is not already in force;

Paragraphs 168, 169, 170, 171, 172, 173, 174, 175, 176, 178, 179, 180, 181, 183, 184 in so far as it is not already in force, 185 in so far as it relates to the omission of Schedules 5, 6, 7, 8, 9, 10, 14, 15 and 16 to the 1996 Act, 186, 187, 188 and 189 (e) and (f);

(School Inspections Act 1996)

Paragraphs 191 to 196;

Paragraphs 197 and 198 in so far as they are not already in force;

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Paragraph 199;

Paragraph 202 in so far as it is not already in force;

Paragraphs 203 to 206;

(Education Act 1997)

Paragraph 208 in so far as it is not already in force;

Paragraphs 209 to 213, 214, 215, 217, 221, 222 in so far as it is not already in force and 223 in so far as it is not already in force.

In Schedule 31 the repeal of—

Section 31 of the London Government Act 1963**(11)**;

in Schedule I to the Superannuation Act 1972**(12)**, the entry relating to the Schools Funding Council for Wales;

in the Local Government Act 1972**(13)**, in section 134(1) and (2) the words “or of a grant-maintained school” and in section 177 (1) the words from the beginning to “committees,”;

in Part III of Schedule 1 to the House of Commons Disqualification Act 1975**(14)**, the entries “Any member of an education association in receipt of remuneration”, and “Any member of the Funding Council for Wales in receipt of remuneration”;

in the Sex Discrimination Act 1975**(15)**, in section 22, in the Table, paragraph 3A, section 23C, in section 25(2) and (4), “, 23C” and in section 25(6), in paragraph (c) (i) “3A” and paragraph (e);

in the Race Relations Act 1976**(16)**, in section 17, in the Table, paragraph 3A, section 18C, in section 19(2) and (4) “, 18C” wherever occurring and in section 19(6), in paragraph (c)(i) “3A” and paragraph (e);

in section 5 of the National Health Service Act 1977**(17)**, in subsections (1)(a) and (1A) (a) the words “or at grant-maintained schools”;

in section 75A (9A) of the Education (Scotland) Act 1980**(18)**, the word “and” immediately preceding paragraph (b);

in section 17(4) of the Acquisition of Land Act 1981**(19)**, paragraph (ab);

in Schedule 1 to the Representation of the People Act 1983**(20)**, in paragraph 22(1)(i) the words “a grant-maintained school”;

in the Building Act 1984, in section 4(1)(a), in paragraph (ii) the words “under section 39 or 44 of the Education Act 1996 or” and paragraph (iii);

in the Education Reform Act 1988, section 166, section 167, in section 197(7) the words “or grant-maintained”, in section 236(1) the entry relating to section 219 and in Schedule 12 paragraphs 11, 13, 15, 16, 18 to 22, 30, 31 and 36;

in Schedule 9 to the Children Act 1989**(21)**, in paragraph 3, sub-paragraph (1)(f), and in sub-paragraph (3) the definition of “grant-maintained”;

(11) 1963 c. 33.

(12) 1972 c. 11.

(13) 1972 c. 70.

(14) 1975 c. 24.

(15) 1975 c. 65.

(16) 1976 c. 74.

(17) 1977 c. 49.

(18) 1980 c. 44; subsection (9A) was inserted by section 5(1)(e) of the Education (Schools) Act 1997 (c. 44).

(19) 1981 c. 67.

(20) 1983 c. 2.

(21) 1989 c. 41.

in the School Teachers' Pay and Conditions Act 1991**(22)**, in section 1(5) the words from “and, where” to “that subsection”, section 1(6), section 2(2), in section 2(5) the words from “and, where” to “(2) above” and in section 2(6)(a) the words from “or, in” to “such schools,”;

in the Diocesan Boards of Education Measure 1991**(23)**, section 3(4) and (5), in section 3(6) the words “or (5)”, section 5, section 6(2), section 7(5), section 9, in section 10(1) the definition of “Church of England voluntary school” and section 10(2);

in the Further and Higher Education Act 1992, in section 2(6) the words “grant-maintained schools,” in section 16(2) the words “or any grant-maintained school” wherever occurring, in section 16(3)(a) the words “or is a grant-maintained school”, section 21(1)(a), in section 21(1) the words “(b) in any other case,”, in section 21(2) the words “orders and”, “grant-maintained school or other” and “grant-maintained schools or other”, in section 26(1) the words “or was a grant-maintained school”, in section 54(1) (b) the words “grant-maintained school,” and in Schedule 8, paragraphs 61 to 64;

in Schedule 2 to the Charities Act 1993**(24)**, paragraph (d);

in Schedule 9 to the Value Added Tax Act 1994**(25)** (exemptions), sub-paragraphs (v) and (vii) of paragraph (a) of Note (1) to Group 6 (Education);

in the Education Act 1994, in section 11A the words “grant-maintained schools,”, section 12(4) and (5) and section 18(1)(a);

section 19(6) (c) and (d) of the Disability Discrimination Act 1995**(26)**;

in the Employment Rights Act 1996**(27)**, in section 50(9)(b) the words “grant-maintained school,”;

in the 1996 Act, section 391(8) and (9), section 392(4), in section 560(6), the words “or the governing body of a grant-maintained school” and those provisions of the 1996 Act omitted by paragraphs 58, 62, 69 to 71, 74, 79, 81, 83, 90 to 92, 94, 95, 106, 107, 111 to 118, 120 to 124, 127, 132, 133(a), 134, 140 to 143, 149, 151, 152, 158, 160(b), 161 to 166, 167, 172, 174, 175, 178, 179, 180, 181, 183, 184, 185, 187, 188 and 189 of Schedule 30 to the 1998 Act specified above;

those provisions of the School Inspections Act 1996**(28)** omitted by paragraphs 191, 192, 194, 195, 199, 202, 205 and 206 of Schedule 30 to the 1998 Act specified above;

those provisions of the Education Act 1997**(29)** omitted by paragraphs 208, 212, 217, 221, 222 and 223 of Schedule 30 to the 1998 Act specified above; and

in the Education (Schools) Act 1997**(30)** section 6(1), in section 7(3)(a) “section 6(1)”, and in section 7(4)(a) “(1) and”.

(22) 1991 c. 49.
(23) 1991 No. 2.
(24) 1993 c. 10.
(25) 1994 c. 23.
(26) 1995 c. 50.
(27) 1996 c. 18.
(28) 1996 c. 57.
(29) 1997 c. 44.
(30) 1997 c. 59.

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SCHEDULE 2

Provisions coming into force on 1st November 1999

In Schedule 30, paragraph 66 in so far as it is not already in force, paragraphs 67, 68, 155 and 185 in so far as it relates to the omission of Schedule 2 to the 1996 Act.

In Schedule 31 the repeal of,

in Schedule 1 to the Superannuation Act 1972, the entry relating to the Funding Agency for Schools;

in Part III of Schedule 1 to the House of Commons Disqualification Act 1975, the entry “Any member of the Funding Agency for Schools in receipt of remuneration”; and

those provisions of the 1996 Act omitted by paragraphs 66, 67, 68, 155 and 185 of Schedule 30 to the 1998 Act specified above.

SCHEDULE 3

Provisions coming into force on 1st January 2000

In Schedule 28, paragraph 4(1) in so far as it applies in relation to the inspection of schools in England.

SCHEDULE 4

Provisions coming into force on 1st August 2000

In Schedule 28, paragraph 4(1) in so far as it applies in relation to the inspection of schools in Wales.

SCHEDULE 5

SAVING AND TRANSITIONAL PROVISIONS RELATING TO TRANSFER OF CONTROL AGREEMENTS

1. In this Schedule an “existing transfer of control agreement” means a transfer of control agreement in force immediately before 1st September 1999 entered into by the governing body of a maintained school pursuant to—

- (a) a power contained in the articles of government for the school such as is mentioned in section 149(1)(c) of the 1996 Act where the agreement was entered into by the governing body of a county or maintained special school within the meaning of the 1996 Act;
- (b) the power contained in section 151 of the 1996 Act, where the agreement was entered into by the governing body of a voluntary school within the meaning of the 1996 Act; or
- (c) a power contained in the articles of government for the school where the agreement was entered into by the governing body of a grant-maintained or grant-maintained special school within the meaning of the 1996 Act.

2. Any existing transfer of control agreement entered into by the governing body of a county or maintained special school shall be treated as entered into pursuant to the power in paragraph 2 of Schedule 13 to the 1998 Act.

3. Any existing transfer of control agreement entered into by the governing body of a voluntary school shall be treated as entered into pursuant to paragraph 6 of Schedule 13 to the 1998 Act.

4. Any existing transfer of control agreement entered into by the governing body of a grant-maintained or grant-maintained special school shall, subject to paragraph 5, be treated as—

- (a) entered into pursuant to paragraph 2 of Schedule 13 to the 1998 Act if the school becomes a community or community special school on 1st September 1999;
- (b) entered into pursuant to paragraph 4 of that Schedule, if the school becomes a foundation or foundation special school on that date; or
- (c) entered into pursuant to paragraph 6 of that Schedule, if the school becomes a voluntary school on that date.

5. Where by virtue of paragraph 4(a) or (c) an existing transfer of control agreement is treated as entered into pursuant to paragraph 2 or 6 of Schedule 13 to the 1998 Act, paragraph 2(3)(a) and (b)(i) or, as the case may be, paragraph 6(3)(a) and (b)(i) of that Schedule shall not apply in relation to that agreement.

SCHEDULE 6

SAVING AND TRANSITIONAL PROVISIONS RELATING TO PUPIL EXCLUSIONS

Exclusion of pupils

1. Sections 64 to 68 of, and Schedule 18 to, the 1998 Act shall not apply in relation to the exclusion of a pupil from a school where the decision to exclude him was made before 1st September 1999.

2. However, the following provisions made by or (as the case may be) by virtue of the 1996 Act shall continue to apply in relation to such an exclusion, namely—

- (a) where the school is a county, voluntary or maintained special school—
 - (i) sections 156 to 160,
 - (ii) Schedules 15 and 16(31), and
 - (iii) Part I of Schedule 33 (to the extent necessary to give effect to paragraphs 4 and 5 of Schedule 16);
- (b) where the school is a grant-maintained school—
 - (i) sections 307, 307A and 308(32),
 - (ii) paragraph 6 of Schedule 23(33), and
 - (iii) Schedule 25A(34);

(31) Section 156 of, and Schedule 16 to, the 1996 Act were amended by sections 6 and 7 of, and Schedule 7 to, the Education Act 1997 (c. 44).

(32) Section 307 was amended, and section 307A inserted, by sections 6 and 8 of, and Schedule 7 to, the Education Act 1997.

(33) Paragraph 6 of Schedule 23 was amended by Schedule 7 to the Education Act 1997.

(34) Schedule 25A was inserted by section 8 of the Education Act 1997.

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- (c) where the school is a grant-maintained special school, paragraphs 14 to 16 of Schedule 28(35);
- (d) regulations made under any provision of the 1996 Act referred to in sub-paragraphs (a) to (c) above (as such regulations had effect immediately before 1st September 1999) to the extent that they relate to the exclusion of pupils; and
- (e) the provisions of the school's instrument or (as the case may be) articles of government (as they had effect immediately before 1st September 1999) to the extent that they relate to the exclusion of pupils.

3. A reference to a county, voluntary, maintained special, grant-maintained or grant-maintained special school in—

- (a) paragraph 2, or
- (b) a provision of (or a provision made under) the 1996 Act which is to continue to have effect for transitional purposes on or after 1st September 1999 by virtue of that paragraph,

shall have effect for the purposes of this Schedule, in relation to any time on or after that date, as a reference to a community, foundation, voluntary, community special or foundation special school which was, immediately before that date, a county, voluntary, maintained special, grant-maintained or grant-maintained special school (as the case may be).

4.—(1) In this paragraph “relevant decision” means a decision, which a governing body of a school are required or permitted to make by virtue of any provision in paragraph 2, whether to direct the head teacher to reinstate an excluded pupil.

(2) Where a governing body (or, as the case may be, a committee of the governing body) meet on or before 31st August 1999 to consider the case of an excluded pupil but do not make a relevant decision before 1st September 1999, they may proceed to do so on or after that date provided that no member of the governing body so concerned ceases to be (or is no longer eligible to be) a governor of the school by virtue of any provision of, or made under, the 1998 Act, but otherwise the exclusion shall be considered afresh by a committee of the governing body established (pursuant to regulations under Schedule 11 to the 1998 Act) for the purpose of discharging the functions of governing body under sections 65 to 68 of the 1998 Act.

(3) Any provision referred to in paragraph 2 which requires or permits the governing body of a school to consider whether to make a relevant decision shall, in relation to the case of an excluded pupil which has not been so considered before 1st September 1999, be construed on or after that date as a provision requiring or permitting that case to be considered by a committee of the governing body established (pursuant to regulations under Schedule 11 to the 1998 Act) for the purpose of discharging the functions of governing body under sections 65 to 68 of the 1998 Act.

5.—(1) In this paragraph “relevant appeal” means an appeal against a decision or direction relating to the permanent exclusion of a pupil from a school which—

- (a) by virtue of paragraph 2 above is required to be considered by an appeal committee constituted—
 - (i) in accordance with Part I of Schedule 33 to the 1996 Act, or
 - (ii) for the purposes of Schedule 23 to the 1996 Act; and
- (b) has not been determined by such a committee before 1st September 1999.

(35) Paragraph 14 of Schedule 28 was amended by Schedule 7 to the Education Act 1997, paragraph 15 was amended by section 3(2) of the 1997 Act, and paragraph 16 was added by section 8(3) of the 1997 Act.

(2) Where a committee as so constituted have first met to consider a relevant appeal before 1st September 1999, the committee may proceed to determine the appeal on or after that date irrespective of whether the committee includes a person—

- (a) who before that date was eligible for membership of the committee by virtue of being a governor of the school, but
- (b) who, with effect from that date, ceases to be (or is no longer eligible to be) a governor of the school by virtue of any provision of, or made under, the 1998 Act.

(3) However such a person shall not be eligible for membership of a committee referred to in sub-paragraph (1) where the committee first meets to determine a relevant appeal on or after 1st September 1999.

6. This Schedule shall have effect notwithstanding—

- (a) the commencement of—
 - (i) the provisions of the 1998 Act referred to in paragraph 1, and
 - (ii) section 140(4) of that Act; and
- (b) the repeal of the provisions of (or made under) the 1996 Act referred to in paragraph 2.

SCHEDULE 7

TRANSITIONAL AND SAVINGS PROVISIONS RELATING TO SCHOOL GOVERNMENT

Interpretation

1. In this Schedule—

- (a) “the First Transitional Regulations” means the Education (School Government) (Transition to New Framework) Regulations 1998⁽³⁶⁾;
- (b) “the Second Transitional Regulations” means the Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999⁽³⁷⁾;
- (c) “the School Organisation Regulations” means the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999⁽³⁸⁾;
- (d) “county school”, “voluntary school”, “maintained special school” and “grant-maintained school” have the same meanings as in the 1996 Act;
- (e) “instrument of government”, unless the context otherwise requires, has the meaning in section 37(1) of the 1998 Act.

Savings relating to continuation and composition of governing bodies

2. In cases where the instrument of government for a maintained school is not made before 1st September 1999, the repeal of Parts II and III and section 344 of, and Schedule 28 to, the 1996 Act is without prejudice to the continued effect, in accordance with regulation 19 of the First Transitional Regulations, of—

- (a) the provisions of the 1996 Act relating to the composition of governing bodies, disqualification of governors and instruments of government; and

⁽³⁶⁾ S.I. 1998/2763.

⁽³⁷⁾ S.I. 1999/362.

⁽³⁸⁾ S.I. 1999/704.

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- (b) any regulations and instruments of government in force under those provisions (or as if made under those provisions) immediately before 1st September 1999,

for the purpose of determining the composition of and disqualification requirements relating to any governing body to which regulation 19 of the First Transitional Regulations applies, pending reconstitution of the governing body under the instrument of government.

3. The repeal of Part II of the 1996 Act is without prejudice to the continuation in existence of the temporary governing body of a school or proposed school under regulation 13 of the Second Transitional Regulations and the continued effect of—

- (a) the provisions of the 1996 Act relating to the composition of temporary governing bodies, and qualification and disqualification of temporary governors;
- (b) any regulations in force under those provisions immediately before 1st September 1999; and
- (c) any arrangement under section 96 or 97 of the 1996 Act in force immediately before 1st September 1999,

for the purpose of determining the composition of that governing body from time to time and the circumstances in which a person is qualified or disqualified for office as a member of such a governing body.

4. The repeal of Part II of the 1996 Act is without prejudice to the following—

(1) the continuation in existence, for the purposes of regulation 13 of the School Organisation Regulations, of a temporary governing body established in pursuance of an arrangement made under section 96(3) or 97(2) of the 1996 Act in anticipation of approval of proposals or the determination that they should be implemented;

(2) in relation to any temporary governing body referred to in paragraph (1) the continued effect of—

- (a) the provisions of the 1996 Act relating to the composition of temporary governing bodies and qualification and disqualification of temporary governors;
- (b) any regulations in force under those provisions immediately before 1st September 1999; and
- (c) any arrangement under section 96 or 97 of the 1996 Act in force immediately before 1st September 1999,

for the purpose of determining the composition of that governing body from time to time and the circumstances in which a person is qualified or disqualified for office as a member of such a governing body;

(3) in relation to any temporary governing body referred to in paragraph (1) the continued effect of sections 96(4) or 97(7) of the 1996 Act relating to termination of the arrangement referred to in paragraph (1).

5. The repeal of Part III of the 1996 Act is without prejudice to the continuation in existence as a body corporate of a governing body under regulation 30 of the Second Transitional Regulations, and the continued effect in accordance with that regulation, of—

- (a) the provisions of the 1996 Act relating to the composition of governing bodies of grant-maintained schools, disqualification for office of members of such governing bodies and instruments of government for grant-maintained schools, and
- (b) any regulations and instruments of government in force under those provisions immediately before 1st September 1999,

for the purpose of determining the composition of, and disqualification requirements relating to, that governing body pending reconstitution under the instrument of government.

6.—(1) Sub-paragraph (2) applies in any case where the governing body of a school conducted by a grouped governing body (within the meaning of the Second Transitional Regulations) on 31st August 1999 are not constituted under an instrument of government before 1st September 1999.

(2) Where this paragraph applies, the repeal of Parts II and III of the 1996 Act is without prejudice to the continuation in existence as a body corporate of the governing body under regulation 49 of the Second Transitional Regulations and the continued effect in accordance with that regulation, of—

- (a) the provisions of the 1996 Act relating to the composition and name of grouped governing bodies, disqualification for office of members of such governing bodies and instruments of government for grouped schools;
- (b) any regulations and instruments of government in force under those provisions (or as if made under those provisions) immediately before 1st September 1999; and
- (c) regulation 41 of the Second Transitional Regulations,

for the purpose of determining the composition and name of, and disqualification requirements relating to, that governing body.

(3) In the case of any group of schools conducted by a grouped governing body (within the meaning of the Second Transitional Regulations) on 31st August 1999, where each such school has a governing body constituted under an instrument of government from midnight on that day, the repeal of Parts II and III of the 1996 Act is without prejudice to the continuation in existence as a body corporate of that grouped governing body pending dissolution under regulation 50 of the Second Transitional Regulations.

Date of implementation of proposals to establish a new school

7. The repeal of Part II of the 1996 Act is without prejudice to the Secretary of State's power to make a determination under section 99(2) of that Act concerning the date on which the proposals for the establishment of the school are implemented.

Transfers under Schedule 7 to the 1996 Act

8. The repeal of Schedule 7 to the 1996 Act is without prejudice to the continued application of paragraphs 11 and 12 of that Schedule to transfers effected by that Schedule.

Governing body name

9.—(1) Paragraph (2) applies in relation to the governing body of any maintained school which was a county, voluntary or maintained special school (other than a school grouped under section 89 of the 1996 Act) immediately before 1st September 1999, if the instrument of government is not made before 1st September 1999.

(2) During the period between 1st September 1999 and the making of the instrument of government, the governing body shall be known as “the governing body of..” with the addition of the name of the school.

Clerks and chairmen

10. The repeal of Parts II and III and section 344 of and Schedule 28 to the 1996 Act and the commencement of Part II of the 1998 Act shall not cause any—

- (a) clerk to a governing body or temporary governing body; or
- (b) chairman or vice-chairman of a governing body or temporary governing body,

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in office immediately before 1st September 1999 to cease to hold office as such on 1st September 1999, provided he meets the requirements of any regulations made under Schedule 11 to the 1998 Act.

Governors as trustees

11.—(1) In cases where the instrument of government for a maintained school is not made before 1st September 1999, the repeal of section 180 of the 1996 Act is without prejudice to the continuation as trustees of foundation governors and governors appointed by the local education authority or any minor authority, until the governing body is reconstituted under an instrument of government.

(2) In paragraph (1) “foundation governors and governors appointed by the local education authority or any minor authority”, is to be interpreted in accordance with the 1996 Act.

Admissions and pupil discipline provisions in instruments and articles of government

12.—(1) Subject to sub-paragraph (2), the commencement of section 140(4) of the 1998 Act and the repeal of provisions relating to instruments of government in Parts II and III of the 1996 Act are without prejudice to the transitional and saving provisions—

- (a) relating to the admission of children to maintained schools in Schedule 4 to the School Standards and Framework Act 1998 (Commencement No. 6 and Saving and Transitional Provisions) Order 1999⁽³⁹⁾; or
- (b) relating to pupil exclusions in Schedule 6 to this Order.

(2) For the purposes of the transitional and savings provisions referred to in sub-paragraph (1) (a), any reference in a former grant-maintained school’s articles of government to a committee constituted in accordance with the provisions of the instrument of government for the purpose of determining applications for admission to the school shall be treated as a reference to an admissions committee established for such purposes pursuant to regulations under Schedule 11 to the 1998 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings certain provisions of the School Standards and Framework Act 1998 into force on 1st September 1999, 1st November 1999, 1st January 2000 and 1st August 2000 respectively.

The provisions brought into force on 1st September 1999 relate to the introduction of the new framework for schools and the introduction of the categories of community, foundation and voluntary schools and community special and foundation special schools.

The provisions brought into force on 1st November 1999 relate to the repeal of provisions in the Education Act 1996 relating to the funding authorities.

The provision brought into force on 1st January 2000 relates to the inspection of schools in England.

The provision brought into force on 1st August 2000 relates to the inspection of schools in Wales.

⁽³⁹⁾ 1999 No. 1016 (c. 29).

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The Order also contains transitional and saving provisions relating to transfer of control agreements, pupil exclusions, school government, advisory rights of chief education officers, property transfers to grant-maintained schools, the provision by local education authorities of new sites for voluntary schools, winding up and disposal of property by grant-maintained and grant-maintained special schools, exemption from building regulations and other miscellaneous saving provisions.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been or will be brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Sections 10 to 20 and Schedule 1.	8th August 1998.	1998/2048.
Sections 13 and 104(1) to (3) and (5) to (7).	1st September 1998.	1998/2048.
Sections 5 to 9, 14, 15, 16(1) to (5) and 13, 17 to 19, 24(2) to (4), 24(5), 25, 26(2) to (8), 38(3), 39(1) (partially), 44(5) and (6), 45 to 48, 50(3) and (4), 52, 62, 63, 69(2) to (5), 71(7), 72, 77 (partially), 81, 88, 89(2) to (8) (partially), 90(1) to (3), (5), (9) and (10) (partially), 91(2) to (4), (6) and (9) (partially), 92 (partially), 93(3), (8) and (9), 98(5) and (8) to (10) (partially), 99 (1), (2) and (5), 100 (partially), 101 (partially), 102(1) and (4) (partially), 103(3), 104(4)(a), 105, 106, 108, 112(1) and (2), 113, 117, 119, 122, 123, 127, 134(1) and (3), 135 (which introduces Schedule 28) (partially), 136, 140(1) (which introduces Schedule 30) (partially) and section 140(3) (which introduces Schedule 31) (partially); paragraphs 1, 2 and 5 of Schedule 4; Schedule 5; paragraph 6 of Schedule 11; Schedule 14; paragraphs 1, 2(4) (partially) and 3(4) (partially) of Schedule 19; paragraphs 5(1), (5) and (6) (partially), 6(7) and (10)	1st October 1998.	1998/2212.

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
(partially), 9(1), (6) and (7) (partially), and 10(7) (partially) of Schedule 23; and Schedule 26.		
Paragraphs 139 (partially) and 153 of Schedule 30.	20th November 1998.	1998/2791.
Sections 66(8) and 107.	1st December 1998.	1998/2212.
Section 89 in so far as not already in force.	6th January 1999.	1998/3198.
Sections 110, 111, 140(1) (which introduces Schedule 30) (partially) and 140(3) (which introduces Schedule 31) (partially).	1st February 1999.	1998/2212.
Sections 28(9), 29(8), 33(4), 77 so far as not already in force, 109(3) and (4), 116; and paragraphs 5(4) (partially) and 10(4) (partially) of Schedule 6.	1st February 1999.	1998/3198.
Sections 54 (partially), 55 (partially), 129, 137, paragraph 30 of Schedule 16, paragraphs 1(1) and 27(3) of Schedule 17, Schedule 29, paragraphs 48, 125, 126 and 182 of Schedule 30.	1st February 1999.	1999/120.
Schedules 30 (partially) and 31 (partially).	10th March 1999.	1999/120.
Sections 49, 50 in so far as not already in force, 51, 53, 118, 124, 125(5), 140(1) and (3) (partially); Schedule 15 and Schedule 27 (partially).	1st April 1999.	1998/2212.
Paragraph 139 of Schedule 30 (for all remaining purposes).	1st April 1999.	1998/2791.
Sections 24 so far as not already in force, 26 so far as not already in force, 28(5) and (10), 29(4) and (9), 31(4) and (9), 35, 42(1) and (2) (partially), 43(4), 57, 67(2) (partially), 73, 74, 86, 87, 90 to 92 so far as not already in force, 93(1), (2) and (10), 94 to 97, 98 to 103 so far as not already in force, 114, 115(1), (4) and (5), 120, 121, 132, 133	1st April 1999.	1999/1016.

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
and 140(1) and (3) (partially), Schedule 8, Schedule 18 (partially), Schedule 24, Schedule 25, Schedule 30 (partially) and Schedule 31 (partially).		
Section 140(1) (partially) and Schedule 30 (partially).	1st June 1999.	1999/1016.
Section 93 so far as not already in force, Schedule 23 so far as not already in force, Schedule 30 (partially) and Schedule 31 (partially).	1st September 1999.	1999/1016.