



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART I

#### SCHOOLS

#### CHAPTER IV

##### GRANT-MAINTAINED SCHOOLS

###### *Procedure for acquisition of grant-maintained status*

#### **60 Initiation of procedure for acquisition of grant-maintained status**

- (1) Subject to subsection (5) below, in the case of any school which is eligible for grant-maintained status, a ballot of parents on the question of whether grant-maintained status should be sought for the school shall be held in accordance with section 61 of this Act if either—
  - (a) the governing body decide by a resolution passed at a meeting of that body (“W”) to hold such a ballot and confirm that decision, after the consultations required by subsection (3) below, by a resolution (“W”) passed at a subsequent meeting of the governing body held not less than twenty-eight days, nor more than forty-two days, after that at which the first resolution was passed; or
  - (b) they receive a written request to hold such a ballot which meets the requirements of subsection (2) below.
- (2) Those requirements are that the request must be signed (or otherwise endorsed in such manner as the governing body may require) by a number of parents of registered pupils at the school equal to at least twenty per cent. of the number of registered pupils at the school on the date on which the request is received.
- (3) Immediately following the passing of the first resolution the governing body shall consult—
  - (a) the local education authority by whom the school is maintained; and

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- (b) if the school is a voluntary school, the trustees of the school;  
with respect to their decision to hold a ballot.
- (4) Subject to subsection (5) below, on the passing of the second resolution required for the purposes of subsection (1)(a) above or (as the case may be) on receipt of any such request as is mentioned in subsection (1)(b) above, it shall be the duty of the governing body—
- (a) to secure that a ballot is held in accordance with section 61 of this Act—
- (i) within the period of three months beginning with the date of the second resolution; or
- (ii) within the period of two months beginning with the date immediately following the period of twenty-eight days beginning with the date on which the request was received; and
- (b) to give notice in writing that such a ballot is to be held to the local education authority by whom the school is maintained and also, if the school is a voluntary school, to the trustees of the school.
- (5) Subsections (1) and (4) above shall not apply if in the case of the school in question a ballot has been held in accordance with section 61 of this Act within the period of twelve months ending with the date immediately preceding the date of the second resolution or (as the case may be) the date on which the request is received, unless the Secretary of State gives consent in writing for a new ballot to be held.
- (6) A request such as is mentioned in subsection (1)(b) above shall be taken as having been received by a governing body if given or sent to the chairman of the governing body or to the clerk to the governing body.
- (7) Subject to subsection (8) below, it shall be the duty of the governing body of any school which is eligible for grant-maintained status, at the request of any parent of a registered pupil at the school, to make available to the parent for inspection (at all reasonable times and free of charge) at the school, and to supply the parent with a copy of, a list containing the name and address of every person who is known to the governing body to be such a parent if the request is made—
- (a) in connection with any proposal that a ballot should be held in accordance with section 61 of this Act; or
- (b) where the governing body are under a duty by virtue of this section or section 61(8) of this Act to secure that such a ballot is held, in connection with the holding of the ballot.
- (8) A governing body shall not disclose to a parent under subsection (7) above the name and address of any person who has requested the governing body in writing not to disclose that information under that subsection; and accordingly the name and address of that person shall be excluded from the list there mentioned.
- (9) A governing body who in pursuance of subsection (7) above supply copies of the list there mentioned may charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.
- (10) For the purposes of this section, it shall be for the governing body to determine any question whether a person is a parent of a registered pupil at the school.

## **61 Ballot of parents**

- (1) Where the governing body of any school are under a duty by virtue of section 60 of this Act to secure that a ballot is held in accordance with this section, they shall secure that all necessary arrangements for the ballot are made by such body as may be prescribed (“W”).
- (2) The arrangements shall provide for a secret postal ballot.
- (3) It shall be the duty of the governing body to secure that the prescribed body take such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—
  - (a) given such information about the procedure for and consequences of acquisition of grant-maintained status for a school as may reasonably be expected to enable him to form a proper judgment as to whether or not such status should be sought for the school, including, in particular, the information required by subsection (4) below;
  - (b) informed that he is entitled to vote in the ballot; and
  - (c) given an opportunity to do so.
- (4) The information referred to in subsection (3)(a) above is—
  - (a) a general explanation of the provisions of this Chapter relating to—
    - (i) the procedure for acquisition of grant-maintained status for a school;
    - (ii) the constitution and powers of the governing body of such a school; and
    - (iii) the conduct and funding of such a school;
  - (b) the number of teacher and first or (as the case may be) foundation governors that will be specified in any proposals for acquisition of grant-maintained status for the school if the result of the ballot is in favour of seeking such status;
  - (c) the names and addresses of the persons, so far as ascertained, who would be required by section 66 of this Act to be named in any such proposals required to be published under section 62 of this Act in respect of the school as at a specified date by reference to which the information required for the purposes of this paragraph was compiled for the purposes of the ballot;
  - (d) an explanation of the requirements applicable under this Chapter in any case where the determination of an initial governor of any elected category is pending (within the meaning of section 62) on the date of publication of any such proposals;
  - (e) an explanation of—
    - (i) the circumstances in which a person named in any such proposals as a proposed initial governor may be replaced under section 68 of this Act; and
    - (ii) the procedure applicable under this Chapter in each case in which such a replacement is required; and
  - (f) the date that will be included in any such proposals made in respect of the school if the result of the ballot is in favour of seeking grant-maintained status as the proposed date of implementation of the proposals.
- (5) Where the governing body of any school are under a duty by virtue of section 60 of this Act to secure that a ballot is held in accordance with this section they shall make available to every person employed to work at the school for inspection (at

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all reasonable times and free of charge) at the school a document containing the information required by subsections (3)(a) and (4) above to be given to persons eligible to vote in the ballot.

- (6) In determining the arrangements they require to be made by the prescribed body for the purposes of the ballot the governing body shall take into account any guidance given by the Secretary of State as to the arrangements he considers appropriate for ballots held in accordance with this section.
- (7) The Secretary of State shall publish any guidance given by him for the purposes of this section in such manner as he thinks fit.
- (8) Where in the case of any ballot held in respect of a school in accordance with this section other than one held by virtue of this subsection (“W”) the total number of votes cast in the ballot by persons eligible to vote in the ballot is less than fifty per cent. of the number of persons so eligible, it shall be the duty of the governing body to secure that another ballot (“W”) is held before the end of the period of fourteen days beginning with the date immediately following that on which the result of the first ballot is determined.
- (9) In any case to which subsection (8) above applies—
  - (a) the result of the first ballot shall be disregarded for the purposes of section 62(1) of this Act; and
  - (b) subject to subsection (10) below, the provisions of this section shall apply as they apply in a case where the governing body of a school are under a duty by virtue of section 60 of this Act to secure that a ballot is held in accordance with this section.
- (10) In any such case—
  - (a) those provisions shall apply with the omission of subsections (3)(a) and (4); and
  - (b) subsection (5) above shall be read as if the information there referred to were the information given for the purposes of the first ballot.
- (11) If it appears to the Secretary of State—
  - (a) that any requirements of this section have been contravened in the case of any ballot held in purported compliance with this section;
  - (b) that the arrangements for any ballot so held did not accord with any guidance given by him for the purposes of this section; or
  - (c) that the governing body of any school have acted unreasonably in the discharge of their duties under this section;he may by notice in writing given to the governing body declare the ballot void and require that a fresh ballot be held in accordance with this section before such date as he may specify in the notice.
- (12) Where a ballot is held in respect of a school in accordance with this section, the Secretary of State may pay, or reimburse the governing body of the school in respect of, the whole or any part of the expenses incurred by the governing body in respect of the ballot.
- (13) The making of any payments under subsection (12) above shall be subject to such conditions as the Secretary of State thinks fit.

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- (14) For the purposes of this section, a person is eligible to vote in any ballot held in respect of a school in accordance with this section if he is—
- (a) known to the governing body to be a parent of a registered pupil at the school; and
  - (b) named as a parent of such a pupil in the register kept in accordance with the requirements of the 1944 Act in the case of the school, as that register has effect on the date immediately following the end of the period of fourteen days beginning with the date on which the relevant resolution or request was passed or received by the governing body.
- (15) For the purposes of paragraph (a) of subsection (14) above, it shall be for the governing body to determine any question whether a person is a parent of a registered pupil at the school; and in paragraph (b) of that subsection the reference to the relevant resolution or request is a reference to the resolution or request (mentioned in section 60(4) of this Act) by reference to which the ballot is required to be held or, where the ballot is a second ballot under subsection (8) above, by reference to which the first ballot was required to be held.

## **62 Proposals for acquisition of grant-maintained status**

- (1) This section applies where in the case of any school which is eligible for grant-maintained status the result of a ballot held in accordance with section 61 of this Act shows a simple majority of votes cast in the ballot by persons eligible to vote in the ballot (within the meaning of that section) in favour of seeking grant-maintained status for the school.
- (2) It shall be the duty of the governing body of the school, before the end of the period of six months beginning with the date on which the result of the ballot is determined, to—
- (a) publish proposals for acquisition of grant-maintained status for the school in accordance with section 63 of this Act or regulations made under that section and any notice with respect to the proposals for the time being required by that section or by such regulations; and
  - (b) submit to the Secretary of State a copy of the published proposals.
- (3) Without prejudice to any specific duty imposed on them under any other provision of this Chapter, it shall be the duty of the governing body, within that period, to take such preparatory steps as may be reasonably required with a view to discharging their duty under subsection (2) above.
- (4) Proposals published under this section may not be withdrawn except with the consent of the Secretary of State and subject to such conditions as he may impose (which may, in particular, require further proposals to be published under this section within such period as the Secretary of State may specify).
- (5) There shall be annexed to the proposals a statement which shall—
- (a) state the result of the ballot, giving the number of votes cast in favour of seeking grant-maintained status for the school and the number of votes cast against;
  - (b) state whether the school is a county, controlled, aided or special agreement school;
  - (c) briefly describe the existing character of the school;

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- (d) state the number of pupils for whom accommodation can be provided at the school; and
  - (e) give such other information as may be prescribed;
- and the statement so annexed shall be treated for the purposes of subsection (2) above as forming part of the proposals.
- (6) The published proposals shall be accompanied by a statement which shall—
- (a) describe the requirements of this Chapter with respect to the membership of the governing body of a grant-maintained school;
  - (b) if the determination of an initial governor of any elected category is pending on the date of publication of the proposals, explain the requirements applicable under this Chapter in any such case;
  - (c) state that the head teacher will be a governor of the school *ex officio* if the school becomes a grant-maintained school;
  - (d) explain—
    - (i) the circumstances in which a person named in the proposals in accordance with section 66 of this Act as a proposed initial governor may be replaced under section 68 of this Act; and
    - (ii) the procedure applicable under this Chapter in each case in which such a replacement is required;
  - (e) explain the effect of subsection (10) below; and
  - (f) give such other information as may be prescribed.
- (7) The proposals shall—
- (a) specify the number of initial teacher and first or foundation governors proposed for the initial governing body in accordance with section 64 of this Act;
  - (b) give the relevant particulars with respect to the persons required by section 66 of this Act to be named in the proposals as proposed initial governors;
  - (c) if the determination of an initial governor of any elected category is pending on the date of publication of the proposals, state that fact and refer to the explanation given in the statement accompanying the proposals in accordance with subsection (6)(b) above;
  - (d) give the name of the person who is the head teacher of the school on the date of publication of the proposals;
  - (e) give the name under which it is proposed that the initial governing body should be incorporated under this section (referred to below in this section as the proposed corporate name);
  - (f) describe the arrangements it is proposed to adopt, if the school becomes a grant-maintained school, with respect to—
    - (i) the admission of pupils to the school;
    - (ii) the provision to be made at the school for pupils who have special educational needs; and
    - (iii) the induction of newly qualified teachers at the school and the in-service training and professional development of teachers at the school; and
  - (g) specify the proposed date of implementation of the proposals.
- (8) In giving the information required by subsection (7)(f)(i) above with respect to proposed admission arrangements, the proposals shall in particular specify the number

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of pupils intended to be admitted to the school in each relevant age group in the first school year beginning on or after the proposed date of implementation of the proposals.

- (9) For the purposes of subsection (8) above—
- (a) pupils intended to be admitted to the school for nursery education shall be disregarded; and
  - (b) pupils already so admitted intended to be transferred to a reception class at the school shall be treated as intended to be admitted to the school on their transfer.
- (10) Before the end of the period of two months beginning with the date of publication of the proposals, any of the following may submit objections to the proposals to the Secretary of State—
- (a) any ten or more local government electors;
  - (b) the trustees (if any) of the school concerned;
  - (c) the governing body of any school affected by the proposals; and
  - (d) any local education authority concerned.
- (11) The Secretary of State—
- (a) may reject any proposals under this section; or
  - (b) where a school in respect of which such proposals are made is eligible for grant-maintained status on the date of publication of the proposals, may approve them without modification or, after consultation with the existing governing body, approve them with such modifications as he thinks desirable.
- (12) Where the Secretary of State rejects any proposals under this section in the case of a school which is eligible for grant-maintained status on the date of his determination, he may require the governing body of the school to publish further proposals under this section within such period as he may specify.
- (13) Where the Secretary of State imposes any requirement under subsection (4) or (12) above the provisions of this section (with the exception of subsection (1)) shall apply as they apply in the case mentioned in subsection (1), but subject to the following modifications, that is to say—
- (a) the reference in subsection (2) above to the period of six months beginning with the date on which the result of the ballot is determined shall be taken as a reference to the period specified by the Secretary of State for submission of the further proposals required; and
  - (b) the reference in subsection (5)(a) above to the ballot shall be read as referring to the last ballot held in accordance with section 61 of this Act in relation to the school before that requirement was imposed.
- (14) If proposals in respect of any school published under this section are approved by the Secretary of State, the initial governing body constituted in accordance with the proposals shall on the proposed date of implementation of the proposals become a body corporate under the proposed corporate name.
- (15) For the purposes of this section, the determination of an initial governor of an elected category is pending on the date of publication of any proposals under this section with respect to a school if—
- (a) an election required under section 66 of this Act for determining a governor of any such category for the initial governing body; or

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(b) an election or appointment required for filling any outstanding vacancy for a governor of any such category on the existing governing body which falls under that section to be taken into account in determining whether an election such as is mentioned in paragraph (a) above is required;  
 has not been held or made by that date.

- (16) In this Chapter, “the relevant particulars” means, in relation to any person named as a proposed initial governor in any proposals under this section—
- (a) his name and address;
  - (b) whether he is to be a parent, teacher, first or foundation governor;
  - (c) if he is to be a parent or teacher governor, the term of office that applies in his case under section 65 of this Act; and
  - (d) if he is to be a first or foundation governor, the term of office proposed for him in accordance with subsection (4) of that section or, in the case of a foundation governor who is to hold office *ex officio*, the fact that he is to do so.

### **63 Publication of proposals and notice with respect to proposals**

- (1) Where section 62 of this Act applies in the case of any school, the proposals for acquisition of grant-maintained status for the school shall for the purposes of subsection (2) of that section be published—
- (a) by being posted at or near any main entrance to the school;
  - (b) by being posted in at least one conspicuous place within the area served by the school; and
  - (c) by being made available for inspection at all reasonable times at the school or at any other place within that area to which members of the public may conveniently have access.
- (2) There shall be published in at least one newspaper circulating in that area a notice with respect to the proposals containing such summary of the proposals as the governing body may think appropriate including, in particular, the information required by subsection (3) below.
- (3) A notice under subsection (2) above shall—
- (a) state that proposals for acquisition of grant-maintained status have been published and submitted to the Secretary of State for approval;
  - (b) specify the proposed date of implementation of the proposals;
  - (c) state that, if the proposals are so approved, the school will on that date—
    - (i) cease to be maintained by the local education authority; and
    - (ii) be conducted by a newly constituted governing body and maintained by grants paid by the Secretary of State;
  - (d) give the information required to be specified in the proposals by section 62(7)(f)(i) of this Act;
  - (e) state where the proposals may be inspected; and
  - (f) explain the effect of section 62(10) of this Act.
- (4) The Secretary of State may by regulations make such provision (whether by way of modification of, or substitution for, the provisions of subsections (1) to (3) above) as he considers appropriate with respect to—
- (a) the publication of proposals for the acquisition of grant-maintained status; and



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- (b) the publication of such notice (if any) with respect to such proposals as may be prescribed.
- (5) References in this section to proposals for acquisition of grant-maintained status include references to the statement required by section 62(5) of this Act to be annexed to the proposals.

#### **64 Constitution of the initial governing body of a grant-maintained school**

- (1) The initial governing body of a grant-maintained school shall consist of—
- (a) five parent governors;
  - (b) such number (not being less than one nor more than two) of teacher governors as may be specified in the proposals for acquisition of grant-maintained status for the school;
  - (c) the person who is for the time being the head teacher, as a governor ex officio; and
  - (d) either—
    - (i) in the case of a school which was a county school immediately before it became a grant-maintained school, such number of first governors as may be so specified; or
    - (ii) in the case of a school which was a voluntary school immediately before it became a grant-maintained school, such number of foundation governors as may be so specified.
- (2) The number of first governors or foundation governors specified in the proposals for acquisition of grant-maintained status for a school shall be a number which secures that those governors outnumber the other governors.
- (3) In the case of the initial governing body of a grant-maintained school, the first governors or (as the case may be) the foundation governors shall include at least two persons who on the date of publication of the proposals for acquisition of grant-maintained status are parents of a registered pupil at the school in respect of which the proposals are made.
- (4) Where the initial governing body of such a school is required to include first governors, those governors shall include persons who appear to those selecting them under section 66 of this Act to be members of the local business community.
- (5) In any provision of this Chapter relating to the initial governing body of a grant-maintained school—
- “first governor” means a person selected under section 66 or nominated under section 68 of this Act who would qualify in accordance with section 53 of this Act for appointment as a first governor to the governing body as constituted in accordance with that section;
  - “foundation governor” means a person so selected or nominated for the purpose for which a foundation governor would be required in accordance with that section to be appointed to the governing body as so constituted;
  - “parent governor” means—
    - (a) a person who, immediately before the incorporation date in relation to the grant-maintained school, is a parent governor (within the meaning of the 1986 Act) in relation to the school in respect of which the proposals for acquisition of grant-maintained status are made; or

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- (b) a person elected under section 66 or elected or nominated under section 68 of this Act to hold office as a parent governor on the initial governing body; and
- “teacher governor” means—
- (a) a person who, immediately before the incorporation date in relation to the grant-maintained school, is a teacher governor (within the meaning of the 1986 Act) in relation to the school in respect of which the proposals for acquisition of grant-maintained status are made; or
  - (b) a person elected under section 66 or elected or nominated under section 68 of this Act to hold office as a teacher governor on the initial governing body.

## **65 Terms of office of initial governors**

- (1) A governor of an elected category on the initial governing body of a grant-maintained school who was a governor of that category on the governing body of the school immediately before the incorporation date in relation to the grant-maintained school shall hold office for the remainder of his term of office on the former governing body.
- (2) A governor of an elected category on the initial governing body of any such school who was elected under section 66 or elected or nominated under section 68 of this Act to hold office as such shall hold office for a term of four years.
- (3) A person may hold office as a foundation governor on the initial governing body of any such school ex officio; but a foundation governor who is a governor ex officio by virtue of this subsection shall cease to be a governor on the coming into force of an instrument of government for the school unless the office by virtue of which he is such a governor is named in the instrument by virtue of section 56(2)(a) of this Act.
- (4) A first governor or foundation governor on the initial governing body of any such school, other than a foundation governor who is a governor ex officio, shall hold office for such term (not being less than five nor more than seven years) as may be specified as his proposed term of office in the proposals for acquisition of grant-maintained status for the school.

## **66 Determination of the initial governors**

- (1) This section applies to any school in respect of which proposals for acquisition of grant-maintained status are required to be published under section 62 of this Act.
- (2) Where in the case of any such school the number of eligible governors of an elected category is the same as the number of governors of that category proposed for the initial governing body of the school, the eligible governors of that category shall be named in the proposals as the proposed initial governors of that category.
- (3) Where in the case of any such school the number of eligible governors of an elected category is greater than the number of governors of that category so proposed, such of the eligible governors of that category as may be determined by agreement between them or, in default of agreement, by drawing lots, shall be named in the proposals as the proposed initial governors of that category.

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- (4) It shall be the duty of the existing governing body of any such school to secure that the persons required to be named in the proposals in accordance with subsection (3) above are determined before the date of publication of the proposals.
- (5) Where in the case of any such school the number (if any) of eligible governors of an elected category, together with the number (if any) of outstanding vacancies for governors of that category on the existing governing body, is less than the number of governors of that category proposed for the initial governing body of the school, it shall be the duty of the authority responsible for election arrangements under the 1986 Act in relation to the school to secure that such number of persons are elected to hold office on the initial governing body as governors of the category concerned as is required to make up the number of governors of that category so proposed.
- (6) In any case to which subsection (5) above applies, the persons to be named in the proposals as the proposed initial governors of the category concerned shall be—
  - (a) any eligible governor of that category; and
  - (b) any person elected under this section to hold office as a governor of that category on the initial governing body before the date of publication of the proposals.
- (7) In the case of any such school which is required to have first governors, the existing governing body shall before the date of publication of the proposals select the persons who are to be the first governors on the initial governing body; and the persons so selected shall be named in the proposals as the proposed initial first governors.
- (8) In the case of any such school which is required to have foundation governors, the persons who are to be the foundation governors on the initial governing body shall be selected before that date by the person or persons named in the instrument of government relating to the existing governing body as being entitled to appoint foundation governors (within the meaning of the 1944 Act) to that governing body; and the persons so selected shall be named in the proposals as the proposed initial foundation governors.
- (9) It shall be the duty of the existing governing body to secure that any selection required by subsection (8) above is carried out in accordance with that subsection.

## **67 Provisions supplementary to section 66**

- (1) Subject to subsection (2) below, where in the case of any school to which section 66 of this Act applies the members of the existing governing body include any person—
  - (a) who holds office as a governor of an elected category; and
  - (b) whose term of office is due to come to an end before the proposed date of implementation or at any time within the period of six months beginning with that date;the governing body may by notice in writing to that person terminate his term of office on a date specified in the notice.
- (2) The governing body may only terminate a person's term of office under this section if—
  - (a) his term of office is due to come to an end after the proposed date of publication of the proposals; or
  - (b) it would not in their view be reasonably practicable to fill the vacancy arising from the termination of his term of office by the procedure applicable under

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the 1986 Act in the time available between the date on which it is due to come to an end and the proposed date of publication of the proposals.

- (3) Without prejudice to section 8(2) of the 1986 Act (instrument of government for county, controlled or maintained special school to provide for four year term of office for governors other than ex officio governors), the term of office of a person elected or appointed in accordance with the requirements of the 1986 Act and any requirements of the instrument of government of the school to fill a vacancy arising by virtue of subsection (1) above shall be four years.
- (4) It shall be the duty of the authority responsible for election arrangements under the 1986 Act in relation to any school to which section 66 of this Act applies to secure that—
  - (a) any election or appointment required for filling any vacancy on the existing governing body occurring before the date of publication of the proposals (including any vacancy arising by virtue of subsection (1) above); and
  - (b) any election required by that section;
 is held or made if possible before that date, and otherwise as soon as possible after that date.
- (5) Where the selection of any person to be a foundation governor on the initial governing body of any such school falls in accordance with section 66(8) of this Act to be made by two or more persons, it shall be made by those persons acting jointly; and if those persons fail to agree on the selection, it shall be made by the Secretary of State or in accordance with any direction given by him.
- (6) Before selecting, or giving any direction as to the selection of, a person to be a foundation governor on the initial governing body of any such school where religious education in accordance with the tenets of a particular religious denomination is given to any pupils in pursuance of section 27 or 28 of the 1944 Act (religious education at voluntary schools), the Secretary of State shall consult the persons appearing to him to be the appropriate authority of the denomination concerned.

## **68 Modification of proposed membership of initial governing body before incorporation**

- (1) This section applies where proposals for acquisition of grant-maintained status are pending in respect of any school.
- (2) For the purposes of this Chapter, such proposals shall be regarded as pending in respect of any school at any time on or after the date of publication under section 62 of this Act of proposals for acquisition of grant-maintained status for the school—
  - (a) until either the proposals are withdrawn or the Secretary of State makes his determination with respect to the proposals; and
  - (b) where he approves the proposals, until the proposed date of implementation.
- (3) Where a person named in the proposals as a proposed first or foundation governor—
  - (a) dies;
  - (b) becomes prospectively disqualified for holding office as such a governor on the initial governing body; or
  - (c) notifies the existing governing body that he is no longer willing to serve on the initial governing body;

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the Secretary of State shall substitute for the particulars in the proposals relating to the former proposed governor the relevant particulars with respect to a person nominated by the existing governing body, where the former proposed governor was a proposed first governor, and by the foundation governors (within the meaning of the 1944 Act) on the existing governing body, where he was a proposed foundation governor.

- (4) Where a person named in the proposals as a proposed governor of an elected category who was elected under section 66 of this Act or this section—
- (a) dies;
  - (b) becomes prospectively disqualified for holding office as such a governor on the initial governing body; or
  - (c) notifies the existing governing body that he is no longer willing to serve on the initial governing body;

it shall be the duty of the authority responsible for election arrangements under the 1986 Act in relation to the school to secure that a person is elected to hold office on the initial governing body in place of the former proposed governor if it is reasonably practicable to do so in the time available before the proposed date of implementation.

- (5) If in any case to which subsection (4) above applies the Secretary of State is satisfied that it would not be reasonably practicable to hold an election in accordance with that subsection in the time available, he shall substitute for the particulars in the proposals relating to the former proposed governor the relevant particulars with respect to a person nominated by the existing governing body.
- (6) Where at any time a person named in the proposals as a proposed governor of an elected category who was so named by virtue of being an eligible governor of that category in relation to the school—
- (a) ceases to hold office on the existing governing body;
  - (b) becomes prospectively disqualified for holding office as such a governor on the initial governing body; or
  - (c) notifies the existing governing body that he is no longer willing to serve on the initial governing body;

the Secretary of State shall substitute for the particulars in the proposals relating to the former proposed governor the relevant particulars with respect to any person nominated by the existing governing body who is at that time an eligible governor of that category who is neither named in the proposals nor prospectively disqualified as mentioned in paragraph (b) above.

- (7) Where in any case to which subsection (6)(a) above applies—
- (a) there is no such eligible governor at the time in question; and
  - (b) the Secretary of State is satisfied that it would not be reasonably practicable to fill the vacancy on the existing governing body by the procedure applicable under the 1986 Act in the time available before the proposed date of implementation;

the Secretary of State shall substitute for the particulars in the proposals relating to the former proposed governor the relevant particulars with respect to a person nominated by the existing governing body.

- (8) Where in any case to which subsection (6)(b) or (c) above applies there is no such eligible governor at the time in question, subsection (4) above shall apply as if the former proposed governor had been elected under section 66 of this Act.

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

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(9) Where a person named in the proposals as a proposed governor of an elected category who was nominated by the existing governing body under this section—

- (a) dies;
- (b) becomes prospectively disqualified for holding office as such a governor on the initial governing body; or
- (c) notifies the existing governing body that he is no longer willing to serve on the initial governing body;

the Secretary of State shall substitute for the particulars in the proposals relating to the former proposed governor the relevant particulars with respect to a person nominated by the existing governing body.

## **69 Provisions supplementary to section 68**

(1) A nomination required to be made for the purposes of subsection (3) of section 68 of this Act by the foundation governors (within the meaning of the 1944 Act) on the existing governing body may be made by a simple majority of those governors present and voting at a meeting held for the purpose (with the chairman of the meeting having a second or casting vote in the event of an equality of votes).

(2) For the purposes of that section, a person named in the proposals as a proposed initial governor of any category shall be treated as becoming prospectively disqualified for holding office as such a governor on the initial governing body by virtue of the occurrence in relation to him of any event by virtue of which he would have become disqualified for holding such office by virtue of—

- (a) section 56(8) of this Act; or
- (b) any provision made by an instrument of government for the school made before the proposed date of implementation;

if the event had occurred on or after the proposed date of implementation.

(3) A person nominated by the existing governing body under subsection (5), (7) or (9) of section 68 of this Act—

- (a) must at the time of his nomination be a parent of a registered pupil at the school, if the former proposed governor was a proposed parent governor; and
- (b) must at the time of his nomination be a teacher at the school, if the former proposed governor was a proposed teacher governor.

(4) It shall be the duty of the existing governing body—

- (a) to give the Secretary of State written notification of the occurrence of any event within subsection (3), (4), (6) or (9) of that section;
- (b) to make any nomination required for the purposes of that section; and
- (c) to give to the Secretary of State written notification of the relevant particulars with respect to the person nominated.

## **70 Elections required for determining initial governors: supplementary provisions**

(1) Where a person is required by section 66 or 68 of this Act to be elected to hold office as a parent governor on the initial governing body of a grant-maintained school, he shall be elected by parents of registered pupils at the school and must himself be such a parent at the time when he is elected.

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

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- (2) Where a person is required by either of those sections to be elected to hold office as a teacher governor on the initial governing body of such a school, he shall be elected by teachers at the school and must himself be such a teacher at the time when he is elected.
- (3) Section 15(2) to (6) of the 1986 Act (qualifications and arrangements for election of parent governors or teacher governors) shall apply in relation to the election of a person under either of those sections to hold office as a parent governor or a teacher governor on the initial governing body of such a school as they apply in relation to the election of a parent governor or teacher governor to the existing governing body.
- (4) Where the authority responsible for election arrangements under the 1986 Act in relation to any school to which section 66 of this Act applies is not the existing governing body, it shall be the duty of the existing governing body to notify that authority in writing of the proposed date of publication of the proposals for acquisition of grant-maintained status for the school.
- (5) Where the authority so responsible in relation to any school to which section 66 or 68 of this Act applies is not the existing governing body, it shall be the duty of the existing governing body to notify that authority in writing of—
  - (a) any election which appears to them to be required under either of those sections in relation to the initial governing body of the proposed grant-maintained school; and
  - (b) any vacancy on the existing governing body for a governor of any category where the number of eligible governors of that category on the existing governing body is for the time being less than the number of governors of that category proposed for the initial governing body.
- (6) Where any election or appointment required for determining a proposed initial governor of any category for a grant-maintained school is held or made at any time when any proposals for acquisition of grant-maintained status are pending in respect of the school, it shall be the duty of the existing governing body to give the Secretary of State written notification of the relevant particulars with respect to the person elected or appointed.
- (7) The Secretary of State shall modify the proposals by including in them any particulars notified to him under this section (in substitution, where appropriate, for any particulars they supersede).
- (8) For the purposes of this section, an election or appointment is required for determining a proposed initial governor of any category for any grant-maintained school if—
  - (a) in the case of an election, it is required under section 66 or 68 of this Act in relation to the initial governing body of that school; or
  - (b) in the case of an election or appointment, it is required for filling a vacancy on the existing governing body of that school for a governor of that category and the number of eligible governors of that category on the existing governing body is for the time being less than the number of governors of that category proposed for the initial governing body.

## **71 Eligible governors for the purposes of Chapter IV**

In relation to any proposals for acquisition of grant-maintained status in respect of any school, a person who is a governor of an elected category in relation to the school is an eligible governor of that category for the purposes of this Chapter if—

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

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- (a) his term of office as such a governor is due to end after the proposed date of implementation of the proposals; and
- (b) he has notified the existing governing body that he is willing to serve on the initial governing body to be constituted in accordance with the proposals and has not withdrawn that notification.

## **72 Initial government and conduct: further provisions**

- (1) The first instrument and articles of government for a grant-maintained school required by sections 53 and 58 of this Act shall be made not later than the end of the period of six months beginning with the incorporation date in relation to the school and may be made before the beginning of that period to come into force on that date.
- (2) In relation to any time on or after that date and before the end of that period when no instrument or articles of government are in force in respect of any such school, the Secretary of State may by direction make with respect to the school any provision he considers appropriate for dealing with any matters relating to the government or conduct of the school that could be dealt with by an instrument or articles of government made under this Chapter.
- (3) Any direction under subsection (2) above in relation to any school—
  - (a) shall be given in writing; and
  - (b) may be given at any time on or after the date on which the proposals for acquisition of grant-maintained status for the school are approved.
- (4) At any time when any such direction is in force in relation to any school, the school shall be governed and conducted in accordance with the provisions of that direction.
- (5) In this Chapter—
  - (a) the reference in section 57(3) to any provision made by the instrument or articles of government of a grant-maintained school shall include a reference to any provision made by a direction under subsection (2) above in relation to such a school; and
  - (b) the reference in section 69(2)(b) to any provision made by an instrument of government for such a school made before the proposed date of implementation shall include a reference to any provision made by such a direction given before that date.
- (6) Schedule 5 to this Act has effect with respect to the transition to grant-maintained status of a school in respect of which proposals for acquisition of such status have been approved and the initial government and conduct of a grant-maintained school.