
STATUTORY INSTRUMENTS

1992 No. 1348

EDUCATION, ENGLAND AND WALES

The Education Assets Board (Transfers under the Education Reform Act 1988) Regulations 1992

<i>Made</i>	- - - -	<i>8th June 1992</i>
<i>Laid before Parliament</i>		<i>12th June 1992</i>
<i>Coming into force</i>	- -	<i>6th July 1992</i>

In exercise of the powers conferred on the Secretary of State by section 89(4) of, and paragraphs 62, 63 and 64 of Schedule 8 to, the Further and Higher Education Act 1992⁽¹⁾, the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education Assets Board (Transfers under the Education Reform Act 1988) Regulations 1992 and shall come into force on 6th July 1992.

(2) In these Regulations, unless the context otherwise requires—

- (a) “the Board” means the Education Assets Board;
- (b) “the Secretary of State” means the Secretary of State for Education and Science or the Secretary of State for Wales as the case may be; and
- (c) a reference to a Schedule is a reference to a Schedule to the Further and Higher Education Act 1992.

Prescribed Period

2. The period referred to in paragraph 62(1)(b) of Schedule 8 that must elapse before the Board can give a direction under that paragraph determining a particular matter is a period of 3 months beginning with the date on which the Board notify the transferor in writing for the purposes of these Regulations that agreement on that matter between the transferor and the Board is required to be reached under paragraph 2(1) of Schedule 10 to the Education (Reform) Act 1988⁽²⁾.

(1) 1992 c. 13.
(2) 1988 c. 40.

Directions by the Board

3.—(1) The Board shall, before giving a direction under paragraph 62 of Schedule 8, give the transferor and the transferee written notice specifying a date, at least two months after the date of the notice, by which written representations and supporting documents must be submitted to the Board.

(2) The transferor and the transferee shall each send to the other copies of any written representations and supporting documents which they submit to the Board.

(3) The Board shall not give a direction under paragraph 62 of Schedule 8 before they have considered any written representations and supporting documents submitted by the date specified in accordance with paragraph (1) above and they may give such a direction taking into account only written representations and supporting documents which have been so submitted.

(4) The Board may proceed to a determination, after giving the transferor and transferee written notice of their intention to do so, notwithstanding that no written representations have been made by the date specified in paragraph (1) above, if it appears to the Board that they have sufficient material before them to make a determination.

Appeals to the Secretary of State

4.—(1) If the transferor or transferee wish to appeal to the Secretary of State under paragraph 63 of Schedule 8 against a determination of the Board, they shall do so by sending a notice in writing to the Secretary of State stating that they wish to appeal and setting out the reasons for the appeal.

(2) The appellant shall send a copy of any notice to the Board and to the respondent.

(3) The notice of appeal must be received by the Secretary of State for Education and Science at the Department of Education and Science, Sanctuary Buildings, Great Smith Street, Westminster, London SW1P 3BT or, as the case may be, the Secretary of State for Wales at the Welsh Office, Cathays Park, Cardiff CF1 3NQ within six weeks of the date of the determination appealed against.

(4) The Secretary of State may accept an appeal that has been made out of time.

(5) The Board shall send to the Secretary of State within one month of receipt of a copy of the notice of appeal from the appellant, a copy of their determination, the written representations made by the transferor and the transferee and any supporting documents together with any written representations which they wish to make regarding the appeal. If the Board make any written representations they shall send a copy to the appellant and to the respondent within that same period of time.

(6) The respondent shall send to the Secretary of State, the Board and the appellant within one month of receipt of a copy of the notice of appeal from the appellant any written representations which they wish to make regarding the appeal.

(7) The Secretary of State shall not take any step under paragraph 63(4) of Schedule 8 before he has considered any written representations submitted by the appellant, the respondent and the Board, together with the copy documents submitted by the Board, within the time limit specified in paragraphs (3), (5) and (6) above, and he may give a direction taking into account only written representations and supporting documents which have been so submitted.

(8) The Secretary of State may by notice in writing request the appellant, the respondent and the Board or any of them to submit such additional information regarding the matter which is the subject of the appeal as he considers appropriate.

(9) The Secretary of State may proceed to a determination, after giving the appellant and the respondent written notice of his intention to do so, notwithstanding that no written representations have been made within the specified time limits, if it appears to him that he has sufficient material before him to make a determination.

8th June 1992

John Patten
Secretary of State for Education and Science

8th June 1992

David Hunt
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Paragraphs 62 to 64 of Schedule 8 to the Further and Higher Education Act 1992 (“Paragraphs 62 to 64”) have effect in place of paragraph 3 of Schedule 10 to the Education Reform Act 1988 (“the 1988 Act”) (supplementary provisions with respect to transfers of property etc.) in the case of any transfer by virtue of section 126 or 130 of the 1988 Act. Section 126 relates to the transfer of property, rights and liabilities to higher education corporations. Section 130 relates to the transfer of property, rights and liabilities to certain institutions designated under section 129 of the 1988 Act.

Paragraphs 62 to 64 introduce a new method of dealing with those cases where the Education Assets Board and the transferor local authority are unable to agree on matters relating to the transfer of property, rights and liabilities to such corporations and institutions.

Paragraphs 62 to 64 came into force on 6 May 1992 by virtue of the Further and Higher Education Act 1992 (Commencement No. 1 and Transitional Provisions) Order 1992 (S.I.1992/831 C.31) but article 4 of that Order provides that paragraph 3 of Schedule 10 to the 1988 Act shall continue to have effect in relation to any matter notified to the Secretary of State by the Education Assets Board prior to that date pursuant to that paragraph.

These Regulations prescribe the following matters for the purposes of Paragraphs 62 to 64—

- (a) a period of time in which agreement must be reached for the purposes of paragraph 62(1)(b);
- (b) the procedure for giving directions under paragraph 62;
- (c) the procedure for making appeals under paragraph 63; and
- (d) the procedure for making determinations under paragraphs 62 and 63.