
STATUTORY INSTRUMENTS

1993 No. 3103

EDUCATION, ENGLAND AND WALES

**The Education (Schools Conducted by
Education Associations) Regulations 1993**

Made - - - - *7th December 1993*
Laid before Parliament *10th December 1993*
Coming into force - - *1st January 1994*

In exercise of the powers conferred by sections 228(1)(a) and 301(6) of the Education Act 1993⁽¹⁾ the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Education (Schools Conducted by Education Associations) Regulations 1993 and shall come into force on 1st January 1994.

(2) In these Regulations—

“the Act” means the Education Act 1993;

“the 1988 Act” means the Education Reform Act 1988⁽²⁾;

“the relevant provisions of Chapter IV of Part I of the 1988 Act” means sections 52(1) and (2), 73(2) and (12), 79 to 91, 100, 101 and 104(1)(c) to (e) and (3) to (5) of that Act;

“the relevant provisions of Part II of the Act” means sections 22(4) and 35, and Chapters III (other than sections 40, 41(5), 43(4), (7) and (9), 45(3) and 46(6)), VI (other than section 83(3) to (5)), VII (other than section 97) and X (other than section 151) of Part II of, and Schedule 4 to, that Act;

“school”, save in the expression “grant-maintained school”, means a school which is or was before being conducted by an education association, a county or voluntary school; and

“transfer date” has the meaning given to that expression in section 220(2) of the Act.

2. Without prejudice to regulations 3 and 4 below, the enactments mentioned in Schedule 1 to these Regulations shall, or shall when in force, have effect in relation to the conduct of a school by an education association as they have effect in relation to the conduct of a grant-maintained school with the modifications made by that Schedule.

(1) 1993 c. 35.
(2) 1988 c. 40.

3. Until there come into force those of the relevant provisions of Part II of the Act which are not in force when these Regulations come into force the relevant provisions of Chapter IV of Part I of the 1988 Act (but no other provisions of that Part) shall have effect in relation to the transfer to an education association under section 220 of the Act of responsibility for the conduct of a school and the subsequent conduct of the school by the association as they have effect in relation to the transfer to a governing body incorporated under that Chapter of responsibility for the conduct of a school and its subsequent conduct by the governing body with the modifications specified in Schedule 2 to these Regulations.

4. Except as provided in regulation 3 above, the relevant provisions of Part II of the Act (but no other provisions of that Part) shall have effect in relation to the matters referred to in that regulation with the modifications specified in Schedule 3 to these Regulations.

5. To the extent that regulations 2 to 4 above provide for any enactment to have effect (whether or not with modifications) in relation to the transfer to an education association under section 220 of the Act of responsibility for the conduct of a school or the conduct of a school by an education association those regulations are without prejudice to the operation of sections 218(7) and 221(4) to (7) of the Act.

3rd December 1993

John Patten
Secretary of State for Education

7th December 1993

John Redwood
Secretary of State for Wales

SCHEDULE 1

Regulation 2

MODIFICATIONS OF ENACTMENTS

PART I

— PRIMARY LEGISLATION

Education (Schools) Act 1992 (c. 38)

1. In paragraph 15(2) of Schedule 2 to the Education (Schools) Act 1992 for the reference to the person who appoints the school's foundation governors there is substituted a reference, in the case of a Church school, to the appropriate diocesan authority; and for the purposes of this paragraph a "Church school" means a Church in Wales school, a Church of England school or a Roman Catholic Church school (as defined in section 305(1) of the Education Act 1993) and "appropriate diocesan authority" shall be construed accordingly.

2. In paragraph 15(5)(b) of that Schedule for the reference to the report referred to in section 58(5)(j) of the 1988 Act there is substituted a reference to the report required by the school's articles of government to be prepared once in every school year.

Education Act 1993 (c. 35)(3)

3. Section 8 of the Education Act 1993 is omitted.

4. In section 12 of the Act, after subsection (5), there is inserted the following subsection—

“(5A) For the purposes of subsection (4) above, section 221(4) of this Act shall not apply.”.

5. In section 161(5) of the Act, for the reference to the report prepared under the articles of government for the school in accordance with section 30 of the Education (No. 2) Act 1986(4) or paragraph 8 of Schedule 6 to the Act there is substituted a reference to the report required by the school's articles of government to be prepared once in every school year.

6. In section 187 of the Act, after subsection (3), there is added the following subsection—

“(4) For the purposes of this section, section 221(4) of this Act shall not apply.”.

7. In section 268(1)(b) of the Act for the reference to an appeal committee constituted for the purposes of paragraph 5(1) of Schedule 6 to the Act there is substituted a reference to an appeal committee constituted in accordance with the school's articles of government.

8. In section 273(2) of the Act for the reference to proposals for grant-maintained status which have been approved there is substituted a reference to an order under section 220 of the Act which has been made; and for the words "where the procedure for acquisition of grant-maintained status is pending (within the meaning of Chapter III of Part II of the Act)" there are substituted the words "during the period referred to in section 41(1) of this Act"(5).

9. In section 273(6) of the Act for the words "subsection (5) above applies" there are substituted the words "an order under section 220 of this Act is made in respect of a school".

(3) The provisions of the Act referred to in paragraphs 3 to 9 of this Schedule are not in force at the date of these Regulations.

(4) 1986 c. 61.

(5) Section 41(1) of the Act is modified by Schedule 3 to these Regulations.

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

PART II

— SUBORDINATE LEGISLATION

The Education (Grant–maintained Schools) (Finance) Regulations 1990(6)

10. In regulation 6 of the Education (Grant–maintained Schools) (Finance) Regulations 1990 for the reference to the governing body or prospective governing body of the school there is substituted a reference to the education association named in the order under section 220 of the Act in relation to the school.

The Education (School Teacher Appraisal) Regulations 1991(7)

11. In regulation 8(5) of the Education (School Teacher Appraisal) Regulations 1991 after “and” there are inserted the words “he or the appraising body”, and after the words “existing appraiser” there are inserted the words “appointed by him, and the appraising body may appoint a new appraiser in place of an existing appraiser appointed by them,”.

12. In regulation 11(2) of those Regulations after the words “or where the appraiser is the head teacher” there are inserted the words “or the appraising body so decide”.

The Education (Grant–maintained Schools) (Finance) Regulations 1993(8)

13. In regulation 12(3) of the Education (Grant–maintained Schools) (Finance) Regulations 1993 for the reference to the governing body or the prospective governing body of the school there is substituted a reference to the education association named in the order under section 220 of the Act in relation to the school.

SCHEDULE 2

Regulation 3

MODIFICATIONS OF RELEVANT PROVISIONS OF 1988 ACT

Provision of 1988 Act	Modification
Section 52(1) (duty of Secretary of State to maintain schools)	The reference to the granting of approval to proposals submitted under section 62(2) of the 1988 Act in accordance with the provisions of that section is omitted, and for the reference to a governing body incorporated under Chapter IV of Part I of the 1988 Act for the purpose of conducting the school there is substituted a reference to an education association named in an order under section 220 of the Education Act 1993 providing for the school to be conducted by them.
Section 73(2) (proposals for alteration etc. of schools)	For the reference to proposals for acquisition of grant–maintained status which have been approved there is substituted a reference to an

(6) S.I.1990/549, amended by S.I. 1991/353.

(7) S.I. 1991/1511.

(8) S.I. 1993/568, amended by S.I. 1993/843.

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Provision of 1988 Act	Modification
Section 83(2)(a) (meaning of “approved admission number”)	order under section 220 of the Education Act 1993 which has been made. For the reference to the number specified in the proposals for acquisition of grant–maintained status for the school in accordance with section 62(8) of the 1988 Act there is substituted a reference to the standard number applying under section 27 of the 1988 Act to the school in relation to that age group and the school year in which the transfer date falls.
Section 89 (change of character or enlargement of school)	Subsection (11) is omitted.

SCHEDULE 3

Regulation 4

MODIFICATIONS OF RELEVANT PROVISIONS OF PART II OF THE ACT

Provision of Part II of the Act	Modification
Section 35 (transitional powers)	For the reference to the period after approval and before the date of implementation (of proposals) there is substituted a reference to the period after the making of an order under section 220 of the Act and before the transfer date, and for the reference to proposals which are approved under section 33 of the Act there is substituted a reference to an order which is made under section 220 of the Act.
Section 38 (transfer of property etc.)	For the reference in subsection (1) to proposals for acquisition of grant–maintained status which are approved there is substituted a reference to an order under section 220 of the Act which is made, for the reference in subsection (4) to the first governors of the school there is substituted a reference to the education association by which the school is conducted, and for the references to the date of implementation of the proposals and the new governing body there are substituted references to the transfer date and the education association named in the order under section 220 of the Act respectively.
Section 39 (transfer of staff)	For the reference in subsection (1) to proposals for acquisition of grant–maintained status which have been approved there is substituted a reference to an order under section 220 of the Act which has been made, and for the references to the date of implementation of the

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Provision of Part II of the Act	Modification
Section 41(1) (control of disposals of land)	<p>proposals there are substituted references to the transfer date.</p> <p>For the reference to any period when the procedure for acquisition of grant-maintained status is pending in relation to a school there is substituted a reference to the period beginning when the local education authority by whom a school in respect of which an order under section 220 of the Act has been made is maintained receive notice under section 220(3) of the Act of the order and ending immediately before the transfer date, and for the reference to a local authority there is substituted a reference to the local education authority.</p>
Section 41(2) (disapplication of section 41(1))	<p>For the reference to the initiation of the procedure for acquisition of grant-maintained status there is substituted a reference to the receipt by the local education authority of the notice referred to in subsection (1).</p>
Section 41(3) (extension of period in section 41(1))	<p>The words “Where proposals for acquisition of grant-maintained status are approved” are omitted, and for the reference to not treating the procedure for acquisition of grant-maintained status as terminated there is substituted a reference to not treating the period referred to in subsection (1) as ended.</p>
Section 41(4) (required consent to disposals)	<p>The words “In the case of a disposal made or contract entered into after proposals for acquisition of grant-maintained status have been approved” are omitted, and for the references to the new governing body there are substituted references to the education association named in the order made under section 220 of the Act.</p>
Section 42(1) (wrongful disposals of land)	Subsection (a) is omitted.
Section 42(4) (effect of repudiation)	<p>For the reference to the date of implementation of the proposals there is substituted a reference to the transfer date.</p>
Section 43(1) (control of contracts)	<p>For the words “the procedure for acquisition of grant-maintained status is pending” there are substituted the words “the period referred to in section 41(1) of this Act has begun”, and for the words “if the proposals for acquisition of grant-maintained status were implemented” there are substituted the words “after the end of that period”.</p>
Section 43(3) (appropriate consent to contracts)	<p>The words “In the case of a contract entered into after the proposals have been approved</p>

Provision of Part II of the Act	Modification
	by the Secretary of State” are omitted, and for the reference to the new governing body there is substituted a reference to the education association named in the order under section 220 of the Act.
Section 44(1) (wrongful contracts)	Paragraph (a) is omitted.
Section 44(3) (effect of repudiation)	For the reference to the date of implementation of the proposals there is substituted a reference to the transfer date.
Section 45(1) (restriction on change of purpose for which property is used or held)	For the reference to any period when the procedure for acquisition of grant-maintained status is pending in relation to a school there is substituted a reference to the period referred to in section 41(1) of the Act.
Section 45(2) (required consent)	The words “In the case of anything done after proposals for acquisition of grant-maintained status have been approved” are omitted, and for the reference to the new governing body there is substituted a reference to the education association named in the order under section 220 of the Act.
Section 45(4) (effect of contravention of section 45(1))	Subsection (a) is omitted, for the reference to the date of implementation of the proposals there is substituted a reference to the transfer date, and for the reference to the initiation of the procedure for acquisition of grant-maintained status there is substituted a reference to the beginning of the period referred to in section 41(1) of the Act.
Section 46(1) (restriction on staff changes)	For the reference to any period when the procedure for acquisition of grant-maintained status is pending in relation to a school there is substituted a reference to the period referred to in section 41(1) of the Act.
Section 46(5) (required consent)	The words “In the case of anything done after proposals for acquisition of grant-maintained status have been approved” are omitted, and for the reference to the new governing body there is substituted a reference to the education association named in the order under section 220 of the Act.
Section 47 (supplementary provisions about transfers)	For the references in subsections (3)(a) and (4) to the date of implementation of proposals for acquisition of grant-maintained status there are substituted references to the transfer date, and for the words in subsection (3)(b) “at a time when the procedure for acquisition of grant-maintained status is pending section 41 of this

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Provision of Part II of the Act	Modification
	Act” there are substituted the words “during the period referred to in section 41(1) of this Act that section”.
Section 96 (proposals for change of character etc.)	Subsection (8) is omitted.
Section 102(2) (proposals for change of character approved before school becomes grant– maintained)	For the reference to section 97 of the Act there is substituted a reference to section 96 thereof.
Section 136(1)(a) (variation of trust deeds etc.)	For the reference to the approval of proposals for acquisition of grant–maintained status for the school there is substituted a reference to the making of an order under section 220 of the Act in respect of the school.
Section 136(1)(b) (variation of trust deeds etc.)	For the reference to any instrument or articles of government made for the school under Chapter V of Part II of the Act or any scheme under section 69 of the Act there is substituted a reference to the articles of government for the school having effect by virtue of section 223 of the Act.
Section 149(2) (meaning of approved admission number)	For the reference to the number specified in the proposals published under section 32, 48 or 49 of the Act as the number of pupils intended to be admitted to the school in that age group in the first school year beginning on or after the date of implementation of the proposals there is substituted a reference to the standard number applying under section 27 of the 1988 Act to the school in relation to that age group and the school year in which the transfer date falls.
Schedule 4 (transitional powers)	For the references in paragraphs 1 to 5 and 6(2) to the new governing body, and for the references in paragraphs 6(1) and 7 to the new governing body of a school and the new governing body of the school respectively there are substituted references to the education association named in the order under section 220 of the Act; for the references in paragraphs 1 and 6 to the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals there are substituted references to the period beginning with the making of the order under section 220 of the Act and ending immediately before the transfer date; for the reference in paragraph 1(b) to the date of implementation of the proposals there is substituted a reference to the transfer date; and for the reference in paragraph 5(1) to

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Provision of Part II of the Act	Modification
	transition to grant-maintained status there is substituted a reference to transition to conduct by an education association.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for enactments relating to grant-maintained schools (or schools including such schools) to have effect in relation to the transfer to education associations of responsibility for the conduct of schools or their subsequent conduct by education associations pursuant to orders made under section 220 of the Education Act 1993.

Regulation 2 provides for the enactments referred to in Schedule 1 to have effect in relation to the conduct of schools by education associations with the modifications in that Schedule.

Regulation 4 provides for certain provisions of Part II of the Education Act 1993 (which concerns grant-maintained schools) to have effect in relation to the transfer to an education association of responsibility for the conduct of a school and its subsequent conduct with the modifications in Schedule 3.

Regulation 3 makes transitional provisions for certain provisions of Chapter IV of Part I of the Education Reform Act 1988 (which concerns grant-maintained schools) to have effect in relation to the transfer to an education association of responsibility for the conduct of a school and its subsequent conduct with the modifications in Schedule 2 until all the relevant provisions of Part II of the 1993 Act are in force.