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STATUTORY INSTRUMENTS

1994 No. 1231

EDUCATION, ENGLAND AND WALES

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

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| <i>Made</i> | - - - - | <i>3rd May 1994</i> |
| <i>Laid before Parliament</i> | | <i>5th May 1994</i> |
| <i>Coming into force</i> | - - | <i>1st June 1994</i> |

In exercise of the powers conferred on the Secretary of State by sections 183(6) and (9), 186 and 310(6) of, and paragraphs 12 and 14 of Schedule 11 to, the Education Act 1993⁽¹⁾, the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation, commencement and interpretation

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

(2) Any reference in these Regulations to the principal Regulations is a reference to the the Education (Grant-maintained Special Schools) Regulations 1994⁽²⁾.

Amendment of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation and general modification)—

- (a) in paragraph (1), the definition of “relevant particulars” shall be omitted; and
- (b) after paragraph (2) there shall be inserted—

“(3) Any reference, whether express or implied, in any enactment applied by these Regulations to another enactment so applied shall have effect as if it were a reference to the enactment as so applied.”.

3. In regulation 6 of the principal Regulations (approval, modification and implementation of proposals and incorporation of governing body)—

(1) 1993 c. 35; for the definitions of “prescribed” and “regulations” see section 305(1) of that Act.
(2) S.I. 1994/653.

- (a) in paragraph (1), for “34” there shall be substituted “34(2) and (3)”; and
- (b) after paragraph (4) there shall be inserted—

“(5) Where the governing body of a grant-maintained special school are incorporated in accordance with section 186(3) of the 1993 Act, they shall be so incorporated under the name given in the proposals for the school to become a grant-maintained special school in pursuance of paragraph 4(1)(g) of Schedule 3 to the 1993 Act (as applied by regulation 5 above).”.

- 4. After regulation 8 of the principal Regulations (expenses in connection with proposals to become a grant-maintained special school) there shall be inserted—

“Interpretation of provisions of Chapter II of Part II of the 1993 Act as applied by these Regulations

8A.—(1) Subject to the modifications set out in the following provisions of this regulation, section 37(2) to (5) of the 1993 Act shall apply in relation to proposals for a maintained special school to become a grant-maintained special school under these Regulations, and to the school to which those proposals relate, as they apply in relation to proposals for acquisition of grant-maintained status under Chapter II of Part II of the 1993 Act and to any school to which such proposals relate.

- (2) In section 37(4)—

- (a) in paragraph (b)—
 - (i) after “teacher” there shall be inserted “or”, and
 - (ii) “foundation or sponsor” shall be omitted; and
- (b) in paragraph (d), “foundation or sponsor” and the words following “that paragraph” shall be omitted.”.

- 5. In regulation 11(1) of the principal Regulations (“pending” procedure for becoming a grant-maintained special school), for the words “a grant-maintained special school as they apply in relation to other schools” there shall be substituted—

“a maintained special school in relation to which the procedure for such a school to become a grant-maintained special school has been initiated and not terminated as they apply in relation to other schools in relation to which the procedure for acquisition of grant-maintained status is pending.”.

- 6. In regulation 13(2) of the principal Regulations (information to be given in notice of proposals for the establishment of new grant-maintained special schools), the words “for a primary school” and “and for a secondary school five” shall be omitted.

- 7. In Part 5 of the principal Regulations (government, conduct etc. of grant-maintained special schools), before regulation 16 there shall be inserted—

“Initial governors for maintained special schools becoming grant-maintained special schools

15A. Paragraphs 1(1) and (2), 2 to 6 and 7(1) of Schedule 7 to the 1993 Act, and section 59 of that Act to the extent that it gives effect to those provisions, shall apply in relation to maintained special schools becoming grant-maintained special schools, subject to the following modifications—

- (a) in paragraph 1(1) of Schedule 7—
 - (i) for “This Schedule applies” there shall be substituted “Paragraphs 1(2), 2 to 6 and 7(1) of this Schedule apply”, and

- (ii) for “grant-maintained school” there shall be substituted “grant-maintained special school”;
- (b) in paragraph 1(2) of that Schedule, for “Part II of this Schedule applies” there shall be substituted “Paragraphs 5, 6 and 7(1) of this Schedule apply”;
- (c) in paragraph 5 of that Schedule—
 - (i) at the beginning of sub-paragraph (2) there shall be inserted “Subject to sub-paragraph (4) below;”
 - (ii) at the beginning of sub-paragraph (3) there shall be inserted “Subject to sub-paragraph (4) below”; and
 - (iii) after sub-paragraph (3) there shall be inserted—

“(4) In the case of a school established in a hospital, if it is not reasonably practicable to appoint under section 71, or to appoint or nominate under section 74, of this Act a person who is a registered parent of a registered pupil at the school, then the person appointed or nominated must be a parent of one or more children of compulsory school age.”; and
- (d) in paragraphs 5(1), 6(1) and 7(1) of that Schedule, for “Chapter II” there shall be substituted “section 186(3)”.

8. In regulation 18(1) of the principal Regulations (determination and replacement of initial governors)—

- (a) the word “and” at the end of paragraph (b) shall be omitted; and
- (b) after paragraph (c) there shall be inserted—

“and
- (d) in subsection (4), the words “or, as the case may be, foundation governor” shall be omitted.”.

9.—(1) At the end of regulation 19 of the principal Regulations (saving for defects and interpretation of sections 68 to 79 of the 1993 Act) there shall be inserted “and by paragraph (2) below”.

(2) Regulation 19 of the principal Regulations shall become paragraph (1) of that regulation and there shall be inserted after that paragraph—

“(2) In section 80(4), for “section 56 of” there shall be substituted “paragraph 2 of Schedule 11 to”.

10. After regulation 22 of the principal Regulations (content of articles of government) there shall be inserted—

“Duty to advertise for lay members for appeal committees

22A. Section 267 of the 1993 Act shall apply to the governing body of a grant-maintained special school as it applies to the governing body of a grant-maintained school.”.

11. For regulation 23 of the principal Regulations (funding) there shall be substituted—

“23. Sections 81 to 95 of the 1993 Act shall apply to grant-maintained special schools and their governing bodies as they apply to grant-maintained schools and their governing bodies subject to the following modifications—

- (1) in section 83(5), paragraphs (a) and (b) and in paragraph (c) the words “in any other case” shall be omitted; and

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

(2) section 93(1) shall have effect with the substitution, for the words after “the determination is made;” of the following words—

“and the determination may apply this section in respect of—

- (a) all grant-maintained special schools in the area of the authority; or
- (b) such grant-maintained special schools in that area as may be ascertained by or in accordance with the determination; and
- (c) any grant-maintained special school outside the area of the authority which was maintained by the authority immediately before it became such a school.”.

12. In Part II of the Schedule to the principal Regulations (enactments applying to grant-maintained special schools: subordinate legislation), in section B—

- (a) in the entry in the left-hand column relating to the “Education (National Curriculum) (Attainment Targets and Programmes of Study in History) (Wales) Regulations 1991”, for “Regulations” there shall be substituted “Order”;
- (b) the entry relating to the Education (School Performance Information) (Wales) Order 1992 shall be omitted;
- (c) after the entry relating to the Education (National Curriculum) (Assessment Arrangements for English, Welsh, Mathematics and Science) (Key Stage 3)(Wales) Order 1993 there shall be inserted—

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| “The Education (School Performance Information) (Wales) Regulations 1993(3) | In regulation 10 for the reference to section 58(5)(j) of the Education Reform Act 1988 there shall be substituted a reference to the school’s articles of government” |
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- (d) after the penultimate entry in the left-hand column there shall be inserted—

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| “The Education (Grant-maintained Schools (Loans) Regulations 1993(4) | Regulation 2 shall not apply and for regulation 3(5) there shall be substituted “(5) In this regulation “the incorporation date” has the meaning assigned to it by section 183(8) or 186(3) of the Act, as the case may require.”” |
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2nd May 1994

John Patten
Secretary of State for Education

3rd May 1994

John Redwood
Secretary of State for Wales

(3) S.I. 1993/2194.
(4) S.I. 1993/3073.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Grant-maintained Special Schools) Regulations 1994 (“the 1994 Regulations”).

The Regulations amend regulation 2 of the 1994 Regulations (which includes interpretation provisions and provisions with respect to the general modification of enactments).

The Regulations amend Part 2 of the 1994 Regulations (which relates to the procedure for becoming a grant-maintained special school). Regulation 6 is amended so that section 34(1) of the Education Act 1993 no longer applies to proposals for a school to become a grant-maintained special school. A new regulation 8A is inserted for the purpose of applying section 37(2) to (5) of the 1993 Act to such proposals. Also amended is regulation 11(1) (which makes provision as to the effect of the pending procedure for proposals for becoming a grant-maintained special school on property disposals etc.).

The Regulations amend regulation 13(2) of the 1994 Regulations (which makes provision as to the information to be given in a notice under section 183(3)(a) and (6) of the 1993 Act). Amendments are also made to Part 5 of the 1994 Regulations (which relates to the government and conduct of grant-maintained special schools). A new regulation 15A is inserted for the purpose of applying certain provisions of schedule 7 to the 1993 Act, which deal with initial governors, to the procedure for becoming a grant-maintained special school. Also amended are regulation 18 (which is concerned with the determination and replacement of initial governors) and regulation 19 (which applies sections 79 and 80 of the 1993 Act to grant-maintained special schools).

The Regulations insert new regulation 22A in the 1994 Regulations. This applies section 267 of the 1993 Act (which enables the Secretary of State to make regulations imposing a duty to advertise for lay members for appeal committees) to the governing bodies of grant-maintained special schools.

The Regulations substitute a new regulation 23 of the 1994 Regulations (which applies the provisions of Chapter VI of Part II of the 1993 Act to grant-maintained special schools and their governing bodies). They also make amendments to Part II of the Schedule to the 1994 Regulations.