

1999 No. 2212

EDUCATION, ENGLAND

**The Education (Maintained Special Schools) (England)
Regulations 1999**

<i>Made</i> - - - -	<i>2nd August 1999</i>
<i>Laid before Parliament</i>	<i>6th August 1999</i>
<i>Coming into force</i>	<i>1st September 1999</i>

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Citation, commencement and application.
2. Interpretation

PART II

**ESTABLISHMENT, ALTERATION AND DISCONTINUANCE OF
MAINTAINED SPECIAL SCHOOLS**

3. Alterations for which proposals must be published.
4. Information to be included in published proposals.
5. Manner of publication of proposals.
6. Information to be sent to School Organisation Committee and Secretary of State.
7. Other bodies to whom proposals should be sent.
8. Objections to proposals.
9. Approval of proposals with modifications after consultation.
10. Conditional approvals.
11. Period after the expiry of which proposals must be referred to the adjudicator if requested.
12. Modification of approved proposals.
13. Provision of information.
14. Voting of committee on proposals.
15. Time within which reference must be made to the adjudicator.
16. Application of and modification of provisions of the Act in special cases.
17. Construction of certain references to School Organisation Committee, Adjudicator etc.

PART III

MISCELLANEOUS

18. Religious Education.
19. Admission to Special Schools.

SCHEDULES:

- Schedule 1 – Alterations for which proposals must be published.
- Schedule 2 – Information to be contained in published proposals
- Part I – Information to be contained in all published proposals to establish, alter or discontinue a school.
 - Part II – Additional information to be contained in published proposals to establish a new school.
 - Part III – Additional information to be contained in published proposals to make a prescribed alteration to a school.
 - Part IV – Additional information to be contained in published proposals to discontinue a school.
- Schedule 3 – Information to be sent to the School Organisation Committee or the Secretary of State.
- Part I – Interpretation.
 - Part II – Information to be sent in all cases where proposals are published under section 31.
 - Part III – Additional information to be sent where the proposals are to establish a new school.
 - Part IV – Additional information to be sent where the proposals are to make a prescribed alteration to a school.
 - Part V – Additional information to be sent where the proposals are to discontinue a school.
- Schedule 4 – Provisions of section 31 and Schedule 6 applying to proposals published under paragraph 5(4) of Schedule 6.

In exercise of the powers conferred on the Secretary of State by sections 31(1), (2), (3), (5) and (7), 33(4), 71(7), 98(5), 138(7) and (8) and 144(1) of, and paragraph 5 of Schedule 4, paragraph 5 of Schedule 5, paragraphs 2, 3, 4 and 5 of Schedule 6 and paragraphs 2, 3, 5, 7, 8 and 9 of Schedule 7 to, the School Standards and Framework Act 1998(a) the Secretary of State for Education and Employment hereby makes the following Regulations:

PART I

PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Maintained Special Schools) (England) Regulations 1999 and shall come into force on 1st September 1999.

(2) These Regulations apply in relation to local education authorities and schools maintained by (or, in the case of new schools, proposed to be maintained by) local education authorities in England.

Interpretation

2.—(1) In these Regulations—

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

“the Transition Regulations” means the Education (School Organisation Proposals) (Transition to New Framework) Regulations 1999(b);

“maintained special school” means a community or foundation special school;

and any reference to section 31, Schedule 6 or Schedule 7 is a reference to that section of, or Schedule to, the Act.

(a) 1998 c. 31. For the meaning of “prescribed” and “regulations” see section 142.

(b) S.I. 1999/704.

(2) For the purposes of paragraph 4(2) of Schedule 6, in relation to maintained special schools, and these Regulations the date of publication of proposals is—

- (a) the date on which the requirements of regulation 5 are satisfied; or
- (b) where different requirements are satisfied on different days, on the last of such days.

PART II

ESTABLISHMENT, ALTERATION AND DISCONTINUANCE OF MAINTAINED SPECIAL SCHOOLS

Alterations for which proposals must be published

3. The alterations specified in Schedule 1 to these Regulations are prescribed as alterations for which proposals must be published under section 31(1)(b) or 31(2)(a).

Information to be contained in published proposals

4.—(1) This regulation prescribes for the purposes of section 31(3)(a) and paragraph 5(2)(a) of Schedule 7 (where the proposals relate to a maintained special school) the information which proposals published under section 31 or paragraph 5 of Schedule 7 must contain.

(2) Proposals published under section 31 or paragraph 5(2) of Schedule 7 must contain the information specified in Part I of Schedule 2 to these Regulations together with—

- (a) the information specified in Part II of that Schedule where the proposals are to establish a new school; or
- (b) the information specified in Part III of that Schedule where the proposals are to make a prescribed alteration to a school; or
- (c) the information specified in Part IV of that Schedule where the proposals are to discontinue a school.

Manner of publication of proposals

5.—(1) This regulation prescribes for the purposes of section 31(3)(b) and for the purposes of paragraph 5(4) of Schedule 6 and paragraph 5(2)(b) of Schedule 7 (in both cases where the proposals relate to a maintained special school) the manner of publication of proposals required to be published under section 31, paragraph 5(4) of Schedule 6 or paragraph 5 of Schedule 7.

(2) Any proposals for the establishment of a school shall be published in at least one newspaper circulating in the area of the local education authority who it is proposed should maintain the school.

(3) Any proposals for the making of a prescribed alteration to a school or for the discontinuance of the school shall be published—

- (a) in at least one newspaper circulating in the area of the local education who maintain the school; and
- (b) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(4) Any proposals that paragraph 5(1) of Schedule 6 (requirement to implement proposals) should cease to apply in relation to proposals published under section 31 shall be published—

- (a) in at least one newspaper circulating in the same area as that in which the newspaper in which the original proposals were published circulated; and
- (b) where the proposals relate to an existing school, by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

Information to be sent to School Organisation Committee and Secretary of State

6.—(1) This regulation prescribes—

- (a) for the purposes of section 31(5)(b) the information in connection with proposals published under section 31, which must be sent to the school organisation committee; and

- (b) for the purposes of paragraphs 2(5) and 3(5) of Schedule 7 the information in connection with proposals published under section 31 pursuant to an order under paragraph 2 or 3 of Schedule 7 which must be sent to the Secretary of State.

(2) Where proposals have been published under section 31 the relevant body shall send to the school organisation committee and, (where the proposals were published pursuant to an order under paragraph 2 or 3 of Schedule 7) to the Secretary of State, the information specified in Part II of Schedule 3 to these Regulations together with—

- (a) such of the information specified in Part III of that Schedule as applies to the proposals, where the proposals are to establish a new school;
- (b) such of the information specified in Part IV of that Schedule as applies to the proposals, where the proposals are to make a prescribed alteration to a school; and
- (c) such of the information specified in Part V of that Schedule as applies to the proposals, where the proposals are to discontinue a school.

Other bodies to whom proposals should be sent

7.—(1) This regulation prescribes, for the purposes of section 31(7) the bodies or persons to whom the relevant body shall also send a copy of any proposals to which section 31(5) applies.

(2) The bodies or persons referred to in paragraph (1) are—

- (a) the Further Education Funding Council for England, if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992^(a) applies;
- (b) where the proposals are published by the governing body of a foundation special school, the local education authority which maintains the school;
- (c) where the proposals are to make a prescribed alteration to, or discontinue, a school, each local education authority who maintain a statement of special educational needs under Part IV of the Education Act 1996^(b) in respect of a registered pupil at the school;
- (d) where the proposals are for the establishment of a new school—
 - (i) each local education authority whose area adjoins that of the authority who it is proposed should maintain the school, and
 - (ii) where it is intended that the school should be situated in the area of a local education authority other than the authority whom it is proposed should maintain the school, the local education authority in whose area the school is proposed to be situated and any local education authority not falling within paragraph (i) of this sub-paragraph whose area adjoins the area of that local education authority;
- (e) where the proposals are for the transfer of a school to a new site in a different area—
 - (i) the local education authority in whose area the proposed new site is to be situated, and
 - (ii) each local education authority whose area adjoins the area in which the proposed new site is to be situated;
- (f) where the proposals are to make a prescribed alteration to or to discontinue a school, the registered parents of every registered pupil at the school;
- (g) any Local Health Authority which acts for any area which includes any part of the area of the local education authority who maintain or who it is proposed should maintain the school; and

^(a) 1992 c. 13.

^(b) 1996 c. 56.

- (h) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain or who it is proposed should maintain the school.

Objections to proposals

8.—(1) This regulation—

- (a) prescribes for the purposes of paragraph 2(2)(a) and (3) of Schedule 6 and paragraph 7(2) of Schedule 7 the period within which objections to proposals mentioned in those paragraphs relating to maintained special schools may be sent; and
- (b) prescribes for the purposes of paragraph 2(2)(b) of Schedule 6 the period within which a local education authority must send copies of objections to proposals relating to maintained special schools.

(2) Objections to proposals published under section 31 or paragraph 5 of Schedule 7 shall be sent to the local education authority or the relevant school organisation committee (as the case may be)—

- (a) within two months after the date of publication of the proposals, except where sub-paragraph (b) applies; and
- (b) within one month after the date of publication of the proposals, where—
 - (i) the proposals are published under section 31 to make a prescribed alteration to or to discontinue a school to which section 15 of the Act applies, or
 - (ii) the proposals are published under section 31 to establish a new school on the same site as a school to which section 15 applies and which it is proposed to discontinue.

(3) The local education authority shall send copies of objections to proposals published under section 31 together with the authority's observations on them to the relevant school organisation committee in accordance with paragraph 2(2)(b) of Schedule 6 within—

- (a) one month after the end of the objection period except where the proposals fall within paragraph (2)(b); and
- (b) two weeks after the end of the objection period where the proposals fall within paragraph (2)(b).

Approval of proposals with modifications after consultation

9.—(1) This Regulation prescribes, for the purpose of paragraph 3(2)(c) of the Schedule 6 or, as the case may be, that sub-paragraph as applied by paragraph 3(7) of that Schedule, the bodies with whom the school organisation committee or, as the case may be, an adjudicator, must consult before approving proposals relating to a maintained special school with modifications.

(2) The bodies prescribed are the body who published the proposals; and

- (a) where the proposals were published by the governing body of a foundation special school, the local education authority who maintain the school; or
- (b) where the proposals were published by the local education authority to make a prescribed alteration to, or discontinue a foundation special school, the governing body of the school.

Conditional approvals

10. The following events are prescribed for the purposes of paragraph 3(3) of Schedule 6 and paragraphs 8(3) and 9(4) of Schedule 7 (which provide that approvals given under those paragraphs may be expressed to take effect only if an event specified in the approval occurs by a date so specified) in relation to approval of proposals relating to a maintained special school—

- (a) the grant of planning permission under Part III of the Town and Country Planning Act 1990(a);
- (b) the acquisition of a site on which a new school, a proposed enlargement of the premises of a school or other alteration to the premises of the school is to be constructed;

(a) 1990 c. 8.

- (c) the acquisition of playing fields to be provided for the school;
- (d) the securing of any necessary access to a site referred to in sub-paragraph (b) or playing fields referred to in sub-paragraph (c);
- (e) the making of any scheme relating to any charity connected with the school or proposed school; and
- (f) the entering into of a private finance transaction within the meaning of regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(a).

Period after the expiry of which proposals must be referred to the adjudicator if requested

11.—(1) This regulation prescribes periods for the purposes of paragraphs 3(5) and 5(5) of Schedule 6 and paragraph 8(5) of Schedule 7 (which provide that if, by the end of such period as may be specified in or determined in accordance with regulations, a school organisation committee has not voted on certain questions and if the bodies referred to in those paragraphs so request, the committee shall refer the proposals or matter to the adjudicator) where the proposals relate to a maintained special school.

(2) For the purposes of paragraph 3(5) of Schedule 6 the period, subject to paragraph (5), is the period ending—

- (a) where proposals were published by a local education authority, two months from the date on which the committee receive from the local education authority under paragraph 2(2)(b) of Schedule 6 and regulation 8(3), copies of all objections made together with the authority’s observations on them; and
- (b) where proposals were published by a governing body, two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 2(3) of Schedule 6 and regulation 8(2);

or, if later, two months from the date on which the committee receive the information referred to in regulation 6.

(3) For the purposes of paragraph 5(5) of Schedule 6 the period, subject to paragraph (5), is the period ending—

- (a) where the matter is a request for modification of proposals, one month from the date which the committee notify persons whom they consult (pursuant to paragraph 5(2) of Schedule 6 and regulation 12(3)) is to be the date by which responses to the consultation must be received;
- (b) where the matter is a request to specify a later date, one month from the date of the request; and
- (c) where the matter is a proposal for the committee to make a determination under paragraph 5(3) of Schedule 6 to the Act,
 - (i) where the proposals were published by a local education authority, two months from the date on which the committee receive from the local education authority under paragraph 2(2)(b) of Schedule 6, as it has effect with the modifications specified in Schedule 4 to these Regulations, copies of the objections made together with the authority’s observations on them, and
 - (ii) where the proposals were published by a governing body, two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 2(3) of Schedule 6, as it has effect with the modifications specified in Schedule 4 to these Regulations, of, if later, two months from the date on which the committee receive the information specified in section 31(5) as it has effect with the modifications specified in Schedule 4 to these Regulations.

(4) For the purposes of paragraph 8(5) of Schedule 7 the period, subject to paragraph (5), is two months from the date on which objections must be sent to the committee under paragraph 7 of Schedule 7 and regulation 8(2).

(5) Where in the opinion of the committee any proposals or matter (“proposal A”) is related to other proposals or another matter (“proposal B”) and the period relating to proposal A

(a) S.I. 1997/319; amended by S.I. 1998/371.

determined in accordance with paragraph (2), (3) or (4) would end earlier than period relating to proposal B, then, despite paragraph (2), (3) or (4) the period relating to proposal A shall expire at the same time as the period relating to proposal B.

Modification of approved proposals

12.—(1) This regulation prescribes, for the purposes of paragraph 5(2) of Schedule 6 to the Act or, as the case may be, that sub-paragraph as applied by paragraph 5(7) of that Schedule the persons or body—

(a) at whose request the school organisation committee or, as the case may be, the adjudicator may—

- (i) modify approved proposals relating to a maintained special school, or
- (ii) where approval of proposals in respect of a maintained special school was given in accordance with paragraph 3(3) of that Schedule (approval expressed to take effect only if an event specified in the approval occurs by a date so specified), specify a later date by which the event in question must occur; and

(b) whom a school organisation committee or, as the case may be, an adjudicator must consult before modifying approved proposals relating to a maintained special school.

(2) A school organisation committee or an adjudicator may modify approved proposals or specify a later date at the request of the persons or body who published the proposals.

(3) Before modifying approved proposals a school organisation committee or an adjudicator shall consult the body who published the proposals; and

(a) where the proposals were published by the governing body of a foundation special school, the local education authority who maintain the school; or

(b) where the proposals were published by the local education authority to make a prescribed alteration to, or discontinue a foundation special school, the governing body of the school.

(4) In this regulation references to approved proposals include references to proposals which the local education authority have determined to implement under paragraph 4 of Schedule 6.

Provision of information

13.—(1) The school organisation committee shall, within two weeks of the date on which such proposals were sent to them, send to the Secretary of State a copy of all published proposals which are sent to them under section 31(5) (including proposals sent to the committee under section 31(5) as it has effect by virtue of Schedule 4 to these Regulations).

(2) The school organisation committee shall, within the two weeks of the date on which they are notified of a determination made by a local education authority under paragraph 4(2) of Schedule 6, sent a copy of such notification to the Secretary of State.

(3) The school organisation committee shall notify the following persons of each decision taken under paragraph 3(2) or 5(2) or (3) of Schedule 6 or paragraph 8(2) of Schedule 7 relating to a maintained special school;

- (a) the body who published the proposals;
- (b) (if different) the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school;
- (c) (if different) the governing body of the school to which the proposals relate;
- (d) subject to paragraph (7), each objector; and
- (e) the Secretary of State.

(4) The school organisation committee shall notify the persons referred to in sub-paragraphs (a) to (c) and (e) of paragraph (3) if they refer any proposals or matter relating to a maintained special school to the adjudicator under paragraph 3(5) or (6), or 5(5) or (6) of Schedule 6 or paragraph 8(5) or (6) of Schedule 7.

(5) The adjudicator shall notify the persons referred to in paragraph (3) of each decision taken under paragraph 3(2) or 5(2) or (3) of Schedule 6 (as applied respectively by paragraphs 3(7) and 5(7) of that Schedule) relating to a maintained special school.

(6) Where, pursuant to paragraph (3) the school organisation committee notify the persons referred to that paragraph of a decision they shall also give reasons for that decision.

(7) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the school organisation committee or the adjudicator may comply with paragraph (3) or (5) as the case may be by—

- (a) notifying the person (if any) who appears to them to have arranged for the petition to be sent to the local education authority or school organisation committee; or
- (b) if there is no such person, notifying the objector whose name appears first on the petition.

(8) Where the proposals (“proposals A”) have been sent to a school organisation committee under section 31(5) or paragraph 5(3) of Schedule 7, and subsequently further proposals are sent to the committee under any of those provisions or under section 28(6) or 29(5) of the Act, which in the opinion of the committee are related to proposals A, the school organisation committee shall notify the body who published proposals A of that fact and of the effect of regulation 11(5).

(9) Paragraph (5) shall not apply in relation to any decision provision for the notification of which is made by regulation 15 of the Education (Adjudicator’s Inquiry Procedure etc.) Regulations 1999(a).

Voting of committee on proposals

14.—(1) In this Regulation references to a group of members of the committee shall be construed in accordance with the Education (School Organisation Committees) (England) Regulations 1999(b).

(2) Each group of members shall collectively have a single vote in relation to any decision of the committee as to whether or not—

- (a) in the relation to proposals relating to a maintained special school, to give any approval under paragraph 3 of Schedule 6 or to—
 - (i) modify any proposals,
 - (ii) specify a later date, or
 - (iii) make any determination,under paragraph 5(2)(a) or (b) or (3) of that Schedule,
- (b) to make, vary or revoke a transitional exemption order under paragraph 21 of Schedule 6 or paragraph 16 of Schedule 7 in relation to proposals relating to a maintained special school;
- (c) to give any approval under paragraph 8 of Schedule 7 in relation to proposals relating to a maintained special school; or
- (d) to defer consideration of whether to make any decision or recommendation on any of the matters referred to in sub-paragraphs (a) to (c) above.

(3) Each decision on any question referred to in paragraph (2) shall be a unanimous decision of those voting.

Time within which reference must be made to the adjudicator

15.—(1) Where by virtue of paragraph 3(5) or 5(5) of Schedule 6 or paragraph 8(5) of Schedule 7 to the Act the committee are required to refer any proposals or matter relating to a maintained special school to the adjudicator they shall do so within two weeks of the receipt of the request under any of those paragraphs.

(2) Where by virtue of paragraph 3(6), 5(6) or 21(4)(a) of Schedule 6, or paragraph 8(6) of Schedule 7, the committee is required to refer any proposals or matter relating to a maintained

(a) S.I. 1999/1286.

(b) S.I. 1999/700.

special school to the adjudicator they shall do so within two weeks of the date on which the committee voted but failed to reach a unanimous decision or (in the case of proposals required to be referred to the adjudicator under paragraph 8(6)(b) of Schedule 7) within two weeks of the date on which the committee decided not to give any approval under paragraph 8 of the Schedule.

Application of and modification of provisions of the Act in special cases

16. Schedule 4 to these Regulations has effect for the purpose of applying, with modifications where specified, provisions of section 31 and Part I of Schedule 6 in relation to proposals published under paragraph 5(4) of Schedule 6 relating to a maintained special school.

Construction of certain references to School Organisation Committee, Adjudicator etc.

17.—(1) Where regulation 19(4) of the Transition Regulations applies, the reference in regulation 12 to the school organisation committee or, as the case may be, the adjudicator shall have effect as a reference to the Secretary of State.

(2) Where Chapter II of Part II of the Act has effect with the modifications specified in the Schedule to the Transition Regulations—

- (a) references in regulations 6 and 8 to the school organisation committee shall have effect as references to the Secretary of State;
- (b) regulation 6(1)(b), the words “and (where the proposals were published pursuant to an order under paragraph 2 or 3 of Schedule 7) to the Secretary of State” in regulation 6(2) and regulations 11 and 15 shall not have effect.
- (c) references in regulations 9 and 12 to the school organisation committee or, as the case may be, the adjudicator shall have effect as references to the Secretary of State; and
- (d) the reference, in paragraph 3 of Schedule 2 to these Regulations, to paragraph 2 of Schedule 6 or, as the case may be, paragraph 7 of Schedule 7 shall have effect as a reference to those paragraphs with the modifications so specified and accordingly the reference in paragraph 3(b) of Schedule 2 to these Regulations to the school organisation committee shall have effect as a reference to the Secretary of State.

PART III

MISCELLANEOUS

Religious Education

18. Arrangements shall be made to secure that, so far as practicable, every pupil attending a maintained special school will attend daily collective worship and receive religious education, or will be withdrawn from attendance at such worship or from receiving such education in accordance with the wishes of his parent.

Admission to Special Schools

19.—(1) Subject to paragraph (2) below no child shall be admitted to a maintained special school unless—

- (a) a statement of special educational needs is maintained for him under Part IV of the Education Act 1996**(a)**;
- (b) he is admitted for the purposes of an assessment of his special educational needs in accordance with section 323 of the Education Act 1996 and his admission to the school is with the agreement of the local education authority, the head teacher of the school, the child’s parent and any person whose advice is to be sought in accordance with regulation 6 of the Education (Special Educational Needs) Regulations 1994**(b)**; or
- (c) he is admitted following a change in his circumstances, with the agreement of the local education authority, the head teacher of the school and the child’s parent.

(2) A child may be admitted to a special school established in a hospital provided that he requires hospital treatment.

(a) 1996 c. 56.

(b) S.I. 1994/1047.

(3) The admission of a child to a maintained special school in accordance with paragraph (1)(c) shall be reviewed at the end of every term.

2nd August 1999

Jacqui Smith
Parliamentary Under Secretary of State,
Department for Education and Employment

ALTERATIONS FOR WHICH PROPOSALS MUST BE PUBLISHED

1. Except where the school is established in a hospital, any increase in the number of pupils for whom the school is organised to make provision which, when taken together with all such previous increases in the number of pupils would increase the number of such pupils by 10% or the relevant number of pupils (whichever is the lesser) as compared with—

- (a) the number of such pupils on the appropriate date; or
- (b) if, at any time after that date the number of such pupils was lower than on that date, the lowest number at any such time.

In this paragraph—

“the appropriate date” means whichever is the latest of the following dates—

- (a) the date falling five years before the date on which the local education authority or, as the case may be, the governing body, form the intention to increase the number of pupils for which the school is organised to make provision;
- (b) the date when the school was established;
- (c) where any proposals for the making of a prescribed alteration to the school consisting of an increase in the number of pupils for which the school is organised to make provision have been approved under—
 - (i) section 184 of the Education Act 1993(a),
 - (ii) section 340 of the Education Act 1996(b), or
 - (iii) paragraph 3 of Schedule 6 or paragraph 8 or 9 of Schedule 7, the date (or latest date) on which any such proposals were implemented; and
- (d) where the local education authority have determined under paragraph 4 of Schedule 6 to implement any proposals for the making of a prescribed alteration to the school consisting of an increase in the number of pupils for which the school is organised to make provision, the date (or latest date) on which any such proposals were implemented; and

“the relevant number of pupils” is 5 where the school only makes boarding provision and 20 in any other case.

2. Except where the school is established in a hospital, any decrease in the number of pupils for whom the school is organised to make provision.

3. The alteration of the upper or lower age limits of the school (that is to say the highest and the lowest ages of pupils for whom education is normally provided at the school).

4. An alteration to a school to provide that—

- (a) a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes; or
- (b) a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only.

5.—(1) The introduction or ending of a boarding provision.

(2) Where the school makes provision for day pupils and boarding pupils, the alteration of boarding provision such that the number of pupils for whom boarding provision is made is increased or decreased by 5 pupils.

6. A change in the type of special educational needs for which the school is organised to make provision.

7. The transfer of a school to a new site except the transfer to site which formerly consisted of playing fields (within the meaning of section 77 of the Act) used by the school, provided that the

(a) 1993 c. 35; repealed by Schedule 38 to the Education Act 1996.

(b) Section 340 is prospectively repealed by Schedule 31 to the Act.

main entrance of the school on its new site will be within 3.218688 kilometres (two miles) of the main entrance of the school on its old site.

SCHEDULE 2

Regulation 4

INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS

PART I

INFORMATION TO BE CONTAINED IN ALL PUBLISHED PROPOSALS TO ESTABLISH, ALTER OR DISCONTINUE A SCHOOL

1. The name of the local education authority or governing body publishing the proposals.
2. The date on which the proposals are planned to be implemented or, where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.
3. A statement explaining the effect of paragraph 2 of Schedule 6 or, as the case may be, paragraph 7 of Schedule 7 and regulation 8 including—
 - (a) the date by which objections should be sent to the relevant local education authority or school organisation committee; and
 - (b) the address of the local education authority or school organisation committee to which objections should be sent.

PART II

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO ESTABLISH A NEW SCHOOL

4. The location of the site of the proposed school (including, where appropriate, the postal address).
5. The category (as set out in section 20(1)(d) or (e) of the Act) into which the proposed school will fall.
6. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing boarding and day pupils) for whom provision is proposed.

PART III

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

7. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing boarding and day pupils) for whom provision is made at the school (before the proposed alteration).
8. A description of the proposed alteration.
9. Where the proposals would result in the school being organised to make provision for pupils with a different type of special educational needs with the result that the provision which would be made for pupils currently at the school would be inappropriate to their needs, details of the other schools which such pupils may attend including any interim arrangements and including transport arrangements to such schools.
10. Where the proposals relate to a foundation special school a statement as to whether the proposals are to be implemented by the local education authority or by the governing body, and, if the proposals are to be implemented by both, a statement as to the extent to which they are to be implemented by each body.

PART IV

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO DISCONTINUE A SCHOOL

11. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing between boarding and day pupils) for whom provision is made at the school.
12. Details of the schools which pupils who are at the school to be discontinued may attend, including any interim arrangements.
13. Details of any other measures proposed to be taken to increase the number of school places available in consequence of the proposed discontinuance.
14. The proposed arrangements for transport of such pupils to other schools.

SCHEDULE 3

INFORMATION TO BE SENT TO THE SCHOOL ORGANISATION COMMITTEE OR THE SECRETARY OF STATE

PART I

INTERPRETATION

1. In this Schedule,
 - (a) “the current school year” means the school year in which the proposals are published; and
 - (b) any reference to proposals being approved or rejected (however framed) includes a reference to the local education authority determining to implement or not to implement (as the case may be) the proposals under paragraph 4 of Schedule 6.

PART II

INFORMATION TO BE SENT IN ALL CASES WHERE PROPOSALS ARE PUBLISHED UNDER SECTION 31

2. The objectives of the proposals.
3. A statement indicating how the proposals would contribute to enhancing the quality of education and how they support the policy for provision for children with special educational needs as set out in the education development plan prepared under section 6 of the Act by the local education authority who maintain the school or who it is proposed should maintain the school.
4. Evidence of the consultation before the proposals were published including–
 - (a) copies of the consultation documents; and
 - (b) the views and responses from the persons consulted.
5. A statement indicating the consequences for the education of pupils with special educational needs in the area if the proposals were rejected.
6. A map showing the location of the school or proposed school.
7. A list of all–
 - (a) special schools; and
 - (b) other schools maintained by a local education authority at which there is provision which is recognised by the local education authority as reserved for children with special educational needs,

in the area of the local education authority who maintain or who it is proposed should maintain the school.

8. Information as to—

- (a) the number of pupils at each school referred to in paragraph 7(a) and
- (b) the number of pupils at each school referred to in paragraph 7(b) for whom the provision referred to in that sub-paragraph is made,

in the current year together with a forecast of that number of each of the subsequent 5 school years.

9. Information as to the numbers of pupils with special educational needs of each type for whom the local education authority maintain a statement of special educational needs under Part IV of the Education Act 1996 in the current school year together with a forecast of such numbers for each of the subsequent 5 school years.

PART III

ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO ESTABLISH A NEW SCHOOL

10. A forecast of the projected number of pupils at the school by sex and, where appropriate, type of special educational need for which provision is made, for the 4 school years following the current school year.

11. Details of proposed arrangements for the provision of transport to the proposed school.

12. Details of the curriculum to be provided at the proposed school.

13. Details of the proposed staffing including details of the time at which it is expected to appoint the head teacher.

14. The following information relating to the proposed accommodation (including temporary accommodation).

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the proposed school is to occupy a single or split site;
- (d) how accessible the accommodation will be; and
- (e) details of the general and specialist accommodation (both teaching and non teaching).

15. Details of the capital costs of establishment of the proposed school and how it is intended to fund implementation of the proposals together with a statement as to whether, as a result of the proposals, premises used for the purposes of another school will no longer be required and if so a statement as to whether those premises are to be sold, and if so the estimated sale proceeds.

16. An estimate of the recurrent costs for the proposed school and any savings in expenditure as a result of implementation of the proposals.

17. Where the establishment of the new school involves development for the purpose of the Town and Country Planning Act 1990(a) a statement as to whether planning permission has been obtained and, if such permission has not been obtained, details of the reasons (if known) why it has not been obtained.

PART IV

ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

(a) 1990 c. 8.

18. The following information relating to the school for the current school year, and the preceding 4 school years–

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and each sex; and
- (c) the number of pupils with each type of special educational needs for which provision is made at the school;

and a forecast of those numbers for each of the subsequent five school years on the assumption that the proposals are approved.

19. Where the number of pupils, or the number of pupils with a particular type of special educational need, is lower in the current school year than in the fourth school year preceding the current school year an explanation of the reason for change in numbers.

20. A statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996^(a) during the period starting three years before the date of publication of the proposals.

21. Details of any proposed arrangements for links between the school and any school maintained by a local education authority which is not a special school.

22. The following information relating to the accommodation at the school and to the proposed accommodation (if different) if the proposals are approved:

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the school occupies a single or a split site;
- (d) how accessible the accommodation will be; and
- (e) details of the general and specialist accommodation (both teaching and non teaching).

23. Details of–

- (a) the staffing at the school and the pupil/staff ratio; and
- (b) the proposed staffing at the school and pupil/staff ratio if the proposals are approved, including, if known, details of the qualifications and experience of the staff relevant to the expected pupil population at the school if the proposals are approved.

24. Details of the capital costs of implementation of the proposals and how it is intended to fund implementation of the proposals together with a statement as to whether, as a result of the proposals, any premises used for the purposes of the school or any other school will no longer be required and if so a statement as to whether those premises are to be sold and if so, the estimated sale proceeds.

25. Details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals.

26. Where the proposals are to alter the upper or lower age limits of the school or to make a change in the type of special educational needs for which the school is organised to make provision, details of any changes in the curriculum which would result if the proposals are approved.

27. Where the proposals (if approved) would result in additional pupils attending the school–

- (a) details of any transitional arrangements proposed in connection with the education of such pupils; and
- (b) details of the proposed arrangements for the provision of transport for such pupils.

28. Where the proposals (if approved) would result in the school being organised to make provision for pupils with a different type of special educational needs with the result that the provision to be made for pupils currently at the school would be inappropriate for their needs–

^(a) 1996 c. 57. Subsection (3) of section 10 is amended and subsections (4A) and (4B) inserted by paragraph 6 of Schedule 6 to the Education Act 1997 (c. 44) and the section is prospectively amended by paragraph 191 of Schedule 30 to the Act.

- (a) the number of pupils for whom provision would be inappropriate;
- (b) the names of all local education authorities who have made arrangements for the placement of such pupils at the school;
- (c) details of alternative provision to be made for such pupils who would otherwise have attended the school (including alternative provision to be made by local education authorities other than the local education authority who maintains the school);
- (d) details of any transitional arrangements proposed in connection with the education of such pupils;
- (e) details of any proposed transport arrangements to any school which such pupils may attend pursuant to any provision made as described in sub-paragraph (c); and
- (f) details of the curriculum at any school which such pupils may attend pursuant to any provision made as described in sub-paragraph (c).

29. Where the proposals are to make a change in the type of special educational needs for which the school is organised to make provision, evidence of how provision is to be made for the projected pupil population in the local education authority's area with the type of special educational needs for which the school is currently organised to make provision and with the type of special educational needs for which it is proposed that the school should make provision.

30. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes—

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) details of any transitional period which the body making the proposals wishes specified in a transitional exemption order (within the meaning of section 27 of the Sex Discrimination Act 1975)(a).

31. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only—

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) where the proposals relate to a school which makes provision for children with emotional and behavioural difficulties and are that the school should become an establishment which only admits boys, details of alternative provision to be made for girls.

32. Where the proposals are for the introduction or ending of boarding provision or the alteration of boarding provision such as is mentioned in paragraph 5(2) of Schedule 1 to these Regulations—

- (a) the current number of pupils for whom boarding provisions can be made;
- (b) the number of pupils for whom it is intended that boarding provision would be made if the proposals are approved;
- (c) a description of the boarding provision at the school or, where the proposals are to introduce boarding provision, the proposed boarding provision;
- (d) where the proposals are to end or reduce boarding provision a statement as to the use to which the former boarding accommodation will be put if proposals are approved; and
- (e) except where the proposals are to end boarding provision, details of arrangements for safeguarding the welfare of children at the school.

33. Where the proposals are to transfer a school to a new site the map such as is referred to in paragraph 6 above showing the location of the school at the proposed site (as well as the existing site).

(a) 1975 c. 65. Section 27 is prospectively amended by paragraph 6 of Schedule 30 to the Act.

34. Where the implementation of the proposals will involve development for the purpose of the Town and Country Planning Act 1990, a statement as to whether planning permission has been obtained and, if such permission has not been obtained, details of the reasons (if known) why it has not been obtained.

PART V

ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO DISCONTINUE A SCHOOL

35. The following information relating to the school for the current year and the preceding 4 school years—

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and sex; and
- (c) the number of pupils with each type of special educational needs for which provision is made at the school.

36. Where the number of pupils, or the number of pupils with a particular type of special educational need is lower in the current school year than in the 4th school year preceding the current school year an explanation of the reason for the change in numbers.

37. The names of all local education authorities who have made arrangements for the placement of children at the school and the number of children placed at the school by each such local education authority.

38. Details of alternative provision to be made for pupils who attend the school (including alternative provision to be made by local education authorities other than the local education authority who maintain the school).

39. Details of any arrangements for staff employed at the school to transfer to other schools.

40. The distance and travelling times from the school to the schools to which it is proposed that the pupils are to transfer.

41. The arrangements proposed for transport to the schools to which it is proposed that the pupils are to transfer.

42. Details of the curriculum at each of the schools to which it is proposed that the pupils are to transfer.

43. Details of any transitional arrangements in connection into the transfer of pupils to other schools.

44. Details of any savings in expenditure as a result of the implementation of the proposals and a statement as to whether the premises used for the purposes of the school will be sold and, if so, the estimated proceeds of sale.

SCHEDULE 4

Regulation 16

PROVISIONS OF SECTION 31 AND SCHEDULE 6 APPLYING TO PROPOSALS PUBLISHED UNDER PARAGRAPH 5(4) OF SCHEDULE 6

The provisions of the Act specified in the left hand column of the table below shall have effect in relation to proposals published under paragraph 5(4) of Schedule 6 and, where modifications are specified in the right hand column of the table, shall have effect with those modifications.

<i>Provision</i>	<i>Modification</i>
Section 31(3).	That subsection shall have effect as if for paragraphs (a) and (b) and the words “as may be prescribed” there were substituted—

“contain–

- (a) the information contained in the original proposals; and
- (b) a statement as to why it is proposed that paragraph 5(1) of Schedule 6 should not apply in relation to the original proposals,

and in this section “the original proposals” means the proposals to which it is proposed that paragraph 5(1) of Schedule 6 should not apply”.

Section 31(4). That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 5(4) of Schedule 6”.

Section 31(5). That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 5(4) of Schedule 6” and for paragraph (b) there were substituted–

“(b) a copy of the information sent to the committee under regulations under this subsection when the original proposals were published (or, where the original proposals were published before 1st September 1999, any information sent to the Secretary of State in connection with the proposals); and

(c) the information prescribed in Schedule 3 to the Education (Maintained Special Schools) (England) Regulations 1999 which would have been applicable if the original proposals had been published at the time when the proposals under paragraph 5(4) of Schedule 6 were published.”.

Section 31(7) That subsection shall have effect as if for the words “or (6) applies to such other bodies or persons as may be prescribed” there were substituted “applies to any bodies or persons to whom a copy of the original proposals were sent either pursuant to regulations under this subsection or (where the original proposals were published before 1st September 1999) pursuant to regulations under section 183 of the Education Act 1993 or section 339 of the Education Act 1996.”

Section 31(9). That subsection shall have effect as if for the words “the local education authority or governing body mentioned in subsection (1) or (2) (as the case may be)” there were substituted the words “the local education authority or governing body who, in accordance with paragraph 5(4) of Schedule 6, published the proposals”.

Schedule 6 –

Paragraph 1. That paragraph shall have effect as if in sub-paragraph (1) for the words “published under section 28, 29 or 31” there were substituted the words “published under paragraph 5(4)”.

Paragraph 2. That paragraph shall have effect as if–

in sub-paragraph (1) for “section 28, 29 or 31” there were substituted “paragraph 5(4)”;

in sub-paragraph (2)(a) for “such period as may be prescribed” there were substituted “two months from the date on which the proposals were published”;

in sub-paragraph (2)(b) for “such period as may be prescribed” there were substituted “one month from the end of the objection period”;

in sub-paragraph (3) for “such period as may be prescribed” there were substituted “two months from the date on which the proposals were published”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to special schools maintained by local education authorities (“maintained special schools”).

Part II prescribes various matters relating to proposals for the establishment, alteration and discontinuance of maintained special schools.

Regulation 3 with Schedule 1 prescribes (for the purposes of section 31 of the School Standards and Framework Act 1998) the alterations for which notice of proposals must be published. Regulation 4 with Schedule 2 prescribes the information which must be contained in published proposals and regulation 5 prescribes the manner in which such proposals must be published. Regulation 6 with Schedule 3 prescribes additional information which has to be provided to the School Organisation Committee and (where proposals are published as a result of an order by the Secretary of State under Schedule 7 to the School Standards and Framework Act 1998) to the Secretary of State and regulation 7 prescribes other bodies to whom proposals must be sent. Regulation 8 prescribes the time limit for objecting to the proposals and the time limit within which (when proposals have been published by a local education authority) a local education authority must send copies of objections to the School Organisation Committee.

Regulation 9 prescribes the bodies with whom the school organisation committee or adjudicator must consult before approving proposals with modifications. Regulation 10 prescribes events which can be specified in a conditional approval.

Regulation 11 provides for the period after which, if the school organisation committee has not voted on a matter, they must, if the body by whom the proposals were published so requests, refer the matter to the adjudicator.

Regulation 12 prescribes the persons at whose request the school organisation committee or adjudicator may modify approved proposals and the bodies with whom the committee or adjudicator must consult before doing so.

Regulation 13 provides for the information which must be provided by the school organisation committee or adjudicator to various persons specified in regulation 13 in connection with published proposals.

Regulation 14 provides for the voting of the school organisation committee. Provision is made that each group of members is collectively to have a single vote when taking decisions relating to the approval of proposals to establish, alter or discontinue schools and that all such decisions must be unanimous decisions of those voting.

Regulation 15 provides for the time limit within which matters must be referred to the adjudicator.

Regulation 16 with Schedule 4 applies provisions of section 31 of, and Schedule 6 to, the School Standards and Framework Act 1998 with modifications to cases where proposals are published under paragraph 5(4) of Schedule 6 to that Act that a body should not be under an obligation to implement approved proposals.

Regulation 17 makes modifications to the regulations which will apply during certain transitional periods.

In Part III regulation 18 makes provision for religious education at maintained special schools and regulation 19 prescribes the circumstances in which a child may be admitted to a maintained special school.

1999 No. 2212

EDUCATION, ENGLAND

**The Education (Maintained Special Schools) (England)
Regulations 1999**

£3.50p

© Crown copyright 1999

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

WO 5320 8/99 ON (MFK)