
STATUTORY INSTRUMENTS

1999 No. 362

The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999

PART II

NEW LEA MAINTAINED SCHOOLS

Modifications to the 1998 Act to enable the instrument of government to be made before the appointed day

8.—(1) Section 141 of, and Schedules 9 and 12 to, the 1998 Act shall apply with the following modifications to enable an instrument of government for a new LEA maintained school to be made before the appointed day.

(2) In section 141 of, and paragraph 15 of Schedule 9 to, the 1998 Act, references to the area served by a school (however expressed) shall be treated as references to the area which it appears to the local education authority will be served by the new LEA maintained school when it is a maintained school.

(3) In relation to a new LEA maintained school which will be a community special school not established in a hospital, paragraph 10 of Schedule 9 to the 1998 Act shall apply as if there were substituted for sub-paragraph (6)(a) the following—

“(a) if a voluntary organisation is designated by the local education authority, in relation to the school or proposed school which will be a community special school, as the appropriate voluntary organisation concerned with matters in respect of which the community special school will be specially organised, a representative governor shall be appointed by that organisation; or”.

(4) In paragraph 15(1) of Schedule 9 to the 1998 Act, the reference to “If the governing body of any maintained school so determine”, shall be treated as if it were a reference to “If the temporary governing body so determine”.

(5) Paragraph 1 of Schedule 12 to the 1998 Act shall have effect as if—

(a) in sub-paragraph (1)(h) there were substituted for “the date”, the words “in accordance with sub-paragraph (2A), the dates”;

(b) after sub-paragraph (2) there were inserted the following sub-paragraph—

(a) “(2A) Where an instrument of government is made before the appointed day for a school which will have a temporary governing body (within the meaning of the Education Act 1996) immediately before the appointed day, such instrument of government:

(i) shall determine the constitution of the governing body and other matters relating to the school as a maintained school of the category to which it will belong under this Act;

(ii) shall include a description of the ethos of the school, if it is anticipated that the school will become a voluntary school with a religious character

(provided that such description shall be of no effect if the school does not become a voluntary school with a religious character);

(iii) shall take effect from the date of making for the purpose of constituting the governing body under the instrument of government but shall not affect the constitution or name of the governing body conducting the school pending constitution of the permanent governing body under the instrument of government; and

(iv) for all other purposes, shall take effect from the appointed day or the school's opening date if later.

(b) In this sub-paragraph and sub-paragraphs (3) and (4), references to "school" include a proposed school."; and

(c) for sub-paragraph (3), there were substituted the following sub-paragraph—

“(3) Where, for the purposes of any provision of Part II of Schedule 9, it is material to determine the number of registered pupils at a school referred to in paragraph (2A), the school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals within the meaning of section 181(2) of the Education Act 1996 or, if no such number is referred to, such number as the local education authority may determine.”.

(6) References in paragraph 3 of Schedule 12 to the 1998 Act to—

(a) “the governing body” and “foundation governors” shall be treated as references to the temporary governing body and temporary foundation governors within the meaning of the 1996 Act (as the case may be);

(b) “the school” shall be treated as including the proposed school; and

(c) “the category of school to which the school belongs” shall be treated as references to the category of school to which the school or proposed school will belong when it is a maintained school.