

1999 No. 638

EDUCATION, ENGLAND AND WALES

**The School Standards and Framework Act 1998
(Modification, Transitional and Consequential Provisions)
Regulations 1999**

Made - - - - 10th March 1999

Laid before Parliament 11th March 1999

Coming into force 1st April 1999

In exercise of the powers conferred on the Secretary of State by section 144 of the School Standards and Framework Act 1998^(a), the Secretary of State for Education and Employment, as regards England, and the Secretary of State for Wales, as regards Wales, hereby make the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the School Standards and Framework Act 1998 (Modification, Transitional and Consequential Provisions) Regulations 1999 and shall come into force on 1st April 1999.

2. In these Regulations—

“the 1996 Act” means the Education Act 1996^(b);

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

“the relevant period” means the period beginning on 1st April 1999 and ending immediately before 1st September 1999^(c).

Amendment of section 5 of the School Teachers’ Pay and Conditions Act 1991

3. In section 5(1) of the School Teachers’ Pay and Conditions Act 1991^(d) omit the definition of “school which has a delegated budget”.

Modification of the Employment Rights Act 1996

4. In the relevant period references in sections 139(3) and 218(7) of the Employment Rights Act 1996^(e) to a school maintained by a local education authority shall apply to a grant-maintained or grant-maintained special school.

^(a) 1998 c. 31.

^(b) 1996 c. 56.

^(c) 1st September 1999 is the appointed day for the purposes of section 20(7) of the School Standards and Framework Act 1998: *See* S.I. 1998/2083.

^(d) 1991 c. 49; section 5(1) was amended by paragraph 101(4) of Schedule 37 to the Education Act 1996.

^(e) 1996 c. 18.

Modification of Schedule 19 to the 1996 Act

5. In the relevant period Parts II and III of Schedule 19 to the 1996 Act shall have effect as if—
- (a) references to “the 1998 Act” were references to the School Standards and Framework Act 1998;
 - (b) a reference (however framed) to a new school which will be a county, controlled, maintained special, or aided school included a reference to such a new school which will be a community, voluntary controlled, community special or voluntary aided school (in each case within the meaning of the 1998 Act) as the case may be;
 - (c) in paragraph 5 the words “Subject to paragraph 19(4),” were omitted, and there was inserted after “constituted” the words “, to which paragraph 19(3) applies”;
 - (d) in paragraph 12 the words “Subject to paragraph 19(4),” were omitted, and there was inserted after “maintained special school” the words “to which paragraph 19(3) applies”;
 - (e) in paragraph 13 the words “Subject to paragraph 19(5),” were omitted, and there was inserted after “aided school” the words “and to which paragraph 19(3) applies”;
 - (f) for paragraph 19 there was substituted—
“19.—(1) Subject to paragraphs 20 to 24, section 136 shall apply in place of paragraphs 6 to 12 of this Schedule to a new school which will be—
 - (a) a county school;
 - (b) a community school within the meaning of the 1998 Act;
 - (c) a controlled school;
 - (d) a voluntary controlled school within the meaning of the 1998 Act;
 - (e) a maintained special school; or
 - (f) a community special school within the meaning of the 1998 Act,unless paragraph (3) applies to such school.
(2) Subject to paragraphs 20 to 24, section 137 shall apply in place of paragraphs 14 to 16 of this Schedule to a new school which will be—
 - (a) an aided school; or
 - (b) a voluntary aided school within the meaning of the 1998 Act,unless paragraph (3) applies to such school.
(3) This paragraph applies to a new school where—
 - (a) the local education authority make a determination under section 49(3)(b) of the 1998 Act with the written approval of the Secretary of State;
 - (b) the Secretary of State makes a determination under section 49(3)(c) of the 1998 Act that the school shall have a delegated budget (within the meaning of Part II of the 1998 Act) as from a date later than its opening date; or
 - (c) the governing body’s right to a delegated budget (within the meaning of Part II of the 1998 Act) is suspended.”;(g) In paragraph 22 for “section 139(2) and (5) to (5B)” there was substituted “section 57(1), (4) and (5) of the 1998 Act”; and
(h) paragraph 24(2) was omitted.

Modification of section 57 of the 1998 Act

6. In the relevant period section 57 of the 1998 Act shall have effect as if “maintained school” included a county, voluntary, maintained special, grant-maintained or grant-maintained special school within the meaning of the 1996 Act.

Transitional provision in relation to section 57 of the 1998 Act

- 7.—(1) Section 57(3) of the 1998 Act shall not apply when before 1st April 1999—
- (a) the governing body of a grant-maintained or grant-maintained special school have determined that a payment should be made in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and

- (b) any payment, or part of any payment, which the governing body had determined to pay has been made or was due to have been made.

(2) Section 57(4) of the 1998 Act shall not apply in respect of the premature retirement of a member of staff of a grant-maintained or grant-maintained special school when before 1st April 1999 any payment, or part of any payment, in respect of such premature retirement has been made or was due to have been made.

(3) Section 57(5) of the 1998 Act shall not apply in respect of the dismissal or resignation of a member of staff of a grant-maintained or grant-maintained special school when before 1st April 1999 any payment, or part of any payment, in respect of such dismissal or for the purpose of securing such resignation has been made or was due to have been made.

(4) Section 57(3) and (5) of the 1998 Act shall not apply when before 1st April 1999—

- (a) the governing body of a grant-maintained or grant-maintained special school have determined that a payment should be made to a person under regulation 5 or 6 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997^(a) who has ceased to be employed by them before that date; but
- (b) no such payment had been made before that date.

8.—(1) Subject to regulation 7(1) and (4), section 57(3) of the 1998 Act shall apply when before 1st April 1999—

- (a) the governing body of a grant-maintained or grant-maintained special school have determined that a payment should be made in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of the school; and
- (b) no such payment, and no part of any such payment had been made before that date.

(2) Paragraph (1) of this regulation does not apply to a payment which such a governing body are required to make—

- (a) by virtue of any contract other than one made in contemplation of the impending dismissal or resignation of the member of staff concerned; or
- (b) under any statutory provision.

Modification of section 81 of the 1998 Act

9. In the relevant period section 81(2) of the 1998 Act shall have effect as if—

- (a) in paragraph (b) for “foundation or voluntary schools” there was substituted “grant-maintained or voluntary schools (within the meaning of the 1996 Act)”; and
- (b) in paragraph (c), for “maintained schools” there was substituted “county, voluntary, maintained special, grant-maintained or grant-maintained special schools (within the meaning of the 1996 Act)”.

Amendment of paragraph 28 of Schedule 30 to the 1998 Act

10. In paragraph 28(2) of Schedule 30 to the 1998 Act omit paragraph (b).

Modification of the School Teachers’ Pay and Conditions Document 1998

11.—(1) In this regulation a reference to a paragraph is to a paragraph of the School Teachers’ Pay and Conditions Document 1998^(b).

(2) In the relevant period, the School Teachers’ Pay and Conditions Document 1998 shall have effect as if—

- (a) references to “the 1998 Act” were references to the School Standards and Framework Act 1998;
- (b) references, however framed, to a school which has a delegated budget were references to a school which has a delegated budget within the meaning of Part II of the 1998 Act, and except as provided in this regulation included references to a grant-maintained or grant-maintained special school which has a delegated budget;

^(a) S.I. 1997/311; amended by S.I. 1998/2256.

^(b) ISBN 0 11 271038 7; the Document is given effect to by the Education (School Teachers’ Pay and Conditions) (No. 2) Order 1998 (S.I. 1998/1884).

- (c) references, however framed, to a school which does not have a delegated budget were references to a school which does not have a delegated budget under Part II of the 1998 Act, and except as provided in this regulation included references to a grant-maintained or grant-maintained special school which does not have a delegated budget;
- (d) references, however framed, to a school or educational establishment maintained by a local education authority included references to a grant-maintained or grant-maintained special school;
- (e) in paragraph (b) of the definition of “relevant body” in paragraph 1.2, the words “or a grant-maintained or grant-maintained special school” were omitted;
- (f) paragraph 2.5 did not apply in the case of a teacher in a grant-maintained or grant-maintained special school;
- (g) in paragraph 8.2.1 the words “or, in the case of a grant-maintained or grant-maintained special school, by the governing body” were omitted;
- (h) in paragraph 21.2(a) the word “formerly” was omitted;
- (i) in paragraph 22.4 the word “formerly” was omitted;
- (j) in paragraph 25.1.2(b) the word “formerly” was omitted;
- (k) in paragraph 25.1.2(c) there was substituted for the words “was formerly” the word “is”;
- (l) in paragraph 25.6 the words “formerly” and “former” were omitted;
- (m) for paragraph 33.1(e) there was substituted—
“ (e) any scheme prepared by the local education authority under section 48 of the 1998 Act.”;
- (n) in paragraph 36.8.2 there was substituted for the word “or” the word “and”;
- (o) in paragraph 36.16 the words “(except in the case of grant-maintained or grant-maintained special schools)” were omitted; and
- (p) in paragraph 43.9.2(b) the words “grant-maintained or grant-maintained special school or a” and “and whose local management scheme delegates to the governing body the relevant responsibility for the provision of supply teachers,” were omitted.

6th March 1999

Estelle Morris
Minister of State,
Department for Education and Employment

10th March 1999

Peter Hain
Parliamentary Under Secretary of State,
Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make modifications, transitional provision and consequential amendments to primary and secondary legislation affecting teachers, the staffing of schools and the employment of school staff consequential on the provisions of the School Standards and Framework Act 1998 (“the 1998 Act”). From 1st April 1999, grant-maintained and grant-maintained special schools will be maintained by local education authorities, although authorities will not at first be required to be responsible for capital expenditure. Other changes to the system of financing schools maintained by local education authorities also take effect on 1st April 1999. The 1998 Act also introduces a new framework for maintained schools. All maintained schools, including grant-maintained and grant-maintained special schools, will enter their new categories on 1st September 1999, the appointed day for this purpose under the 1998 Act.

Regulations 3 and 10 repeal the now redundant definition of “school which has a delegated budget” in section 5(1) of the School Teachers’ Pay and Conditions Act 1991 and the provision in paragraph 28 of Schedule 30 to the 1998 Act which amends this definition.

Regulation 4 modifies provisions of the Employment Rights Act 1996 so that from 1st April 1999 grant-maintained and grant-maintained special schools will be treated as schools maintained by a local education authority.

Regulation 5 modifies Parts II and III of Schedule 19 to the Education Act 1996 for the period from 1st April 1999 to 1st September 1999. Parts II and III of Schedule 19 will apply to the staffing of a new school which will, on opening, be a county, controlled, maintained special or aided school, or if the new school opens on or after 1st September 1999, a community, voluntary controlled, community special or voluntary aided school. Part II of Schedule 19 will apply to such a school which will have a delegated budget from a date later than its opening date, or where the governing body’s right to a delegated budget is suspended. Part III of Schedule 19 will apply to all other such schools.

Section 57 of the 1998 Act, which comes into force on 1st April 1999, makes provision in relation to payments in respect of the dismissal and premature retirement, or for securing the resignation, of staff at all schools maintained by local education authorities with delegated budgets. It makes similar provision to section 139 of the Education Act 1996 which it replaces, but section 139 applied only to county, voluntary and maintained special schools with delegated budgets. Regulation 6 modifies section 57 for the period from 1st April to 1st September 1999 so that it applies to all schools with delegated budgets within the existing school framework, including grant-maintained and grant-maintained special schools. Regulations 7 and 8 make transitional provision in relation to the application of section 57 to grant-maintained and grant-maintained special schools.

Regulation 9 modifies section 81 of the 1998 Act to enable the Secretary of State to consult bodies representing schools in the existing framework before making an order under the section.

Regulation 11 modifies the School Teachers’ Pay and Conditions Document 1998 in consequence of the changes from 1st April 1999 to the financing of schools maintained by local education authorities, and the maintenance of grant-maintained and grant-maintained special schools by authorities from that date.

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