
STATUTORY INSTRUMENTS

2002 No. 2978

The School Companies Regulations 2002

PART 4

The Supervising Authority for a School Company

Designation of a supervising authority by a school company

17.—(1) Each school company must have a local education authority designated as its supervising authority.

(2) Where the governing bodies of maintained schools who are members of a school company, are all from schools which are maintained by one local education authority, then, subject to paragraph (5), that local education authority is the supervising authority for that school company and the school company shall designate it as such.

(3) Where the membership of a school company includes governing bodies of maintained schools maintained by more than one local education authority and there is only one relevant local education authority that is not a member of the school company then, subject to paragraph (5), that local education authority is the supervising authority for the school company and the school company shall designate it as such.

(4) A school company shall designate its supervising authority in accordance with this regulation by serving written notice of the designation on the supervising authority and all relevant local education authorities within 28 days of these Regulations applying to the company.

(5) Where one of the purposes of a school company is to provide services or facilities for schools and the company considers it likely that it will be competing with the local education authority who would be its supervising authority, the company may request the Secretary of State to designate a different local education authority as the company's supervising authority.

Designation of a supervising authority by the relevant local education authorities

18.—(1) This regulation applies to any school company where neither regulation 17(2) nor 17(3) applies.

(2) Where this regulation applies the relevant local education authorities must:—

- (a) agree which of them to designate as the supervising authority within 28 days of this regulation applying to the company; or, in the absence of such agreement,
- (b) notify the Secretary of State, in writing, that they cannot agree, within 28 days of this regulation applying to the company, and request that he designate a supervising authority for the school company.

Designation of a supervising authority by the Secretary of State

19.—(1) Where the Secretary of State designates a local education authority as the supervising authority for a company he shall serve written notice of the designation on the supervising authority,

the company and all the relevant local education authorities specifying the date on which the designation takes effect.

(2) The Secretary of State may, where he has designated a local education authority as the supervising authority, revoke that designation and may designate another relevant local education authority as the school company's supervising authority.

Written notice required when the Secretary of State revokes the designation of a supervising authority

20.—(1) The Secretary of State may revoke the designation of a supervising authority and designate a new supervising authority under regulation 19(2) by serving written notice of the revocation and designation on the school company, the supervising authority and all the relevant local education authorities.

(2) Any such notice must specify the date on which the local education authority designated as the supervising authority ceases to be the supervising authority and either:—

- (a) specify the new supervising authority and the date on which it becomes the new supervising authority; or
- (b) specify the date by which the relevant local education authorities must notify the Secretary of State either—
 - (i) of the authority which they have agreed to designate as the supervising authority; or
 - (ii) that they cannot agree and request that he designate a supervising authority for the company.

Supervising authority may resign

21. Where a local education authority has been designated as the supervising authority for a school company by agreement under regulation 18(2)(a), 20(2)(b)(i) or 23(a), that authority may, after it has been the supervising authority for two years, resign from its role as supervising authority by serving 56 days notice on the company and all the relevant local education authorities.

Circumstances in which the supervising authority must resign

22. If the supervising authority of a school company is a relevant local education authority and all the governing bodies of schools maintained by the supervising authority cease to be members of the company, the supervising authority must resign from its role as supervising authority by serving 56 days notice on the company and all the relevant local education authorities.

Procedure where a supervising authority resigns

23. Where a supervising authority resigns under regulation 21 or 22 the relevant local education authorities must, within 28 days of receipt of the notice, either:—

- (a) agree which authority to designate as the supervising authority; or, in the absence of such agreement,
- (b) notify the Secretary of State that they cannot agree and request that he designate a supervising authority for the school company.

Notification required if a company ceases to be a school company

24. If a company ceases to be a school company it shall notify its supervising authority in writing of that fact within 7 days and specify the date on which it ceased to be a school company. The supervising authority shall notify any other relevant local education authorities and the Secretary of

State that the company has ceased to be a school company within 28 days of receipt of the notice from the company.

Initial functions of a supervising authority

25. When a local education authority becomes the supervising authority for a school company it must provide the Secretary of State with the following information, in writing, within 28 days of becoming the supervising authority:–

- (a) the members of the company;
- (b) the name and registered number of the company; and
- (c) the fact that it is the supervising authority for the company.

Duties of a supervising authority

26. A supervising authority has a duty to:–

- (a) monitor the management and finances of the school company; and
- (b) notify members of the company and relevant local education authorities if it considers that the company is poorly managed or there is a risk of the company becoming insolvent.

Duty to notify Secretary of State

27. A supervising authority must notify the Secretary of State, in writing within 28 days, of the following events:–

- (a) changes to the company's membership, name and registered number; and
- (b) if it ceases to be a relevant local education authority.

Duty of a school company to provide information and accounts to its supervising authority

28.—(1) A school company must, within 10 months of a governing body of a maintained school becoming a member of the company, prepare audited accounts covering the first six months of its operation as a school company and provide a copy of those audited accounts to its supervising authority.

(2) A school company must provide a copy of its annual audited accounts to its supervising authority within 28 days of the audited accounts being approved or qualified by its auditors.

(3) A school company must provide a copy of its constitution to its supervising authority within 28 days of that local education authority becoming the company's supervising authority.

(4) A school company must, within 28 days of any changes to its constitution being made, provide a copy of its amended constitution to the supervising authority and notify the authority of the date on which the changes took effect.

Powers of a supervising authority

29. A supervising authority may exercise the following powers:–

- (a) it may direct the company to provide it with such information on the company's constitution, finances, management and contracts to which the company is a party, as the supervising authority requests;
- (b) it may direct the company to take specified steps in order to comply with these Regulations;

- (c) it may direct the governing body of a maintained school which is a member of the company to reduce its involvement in the management of the company in accordance with regulation 32;
- (d) it may direct the governing body of a maintained school which is a member of the company to resign as a member of the company in accordance with regulation 33.

Circumstances where a supervising authority must direct a governing body

30.—(1) A supervising authority must direct the governing body of a maintained school to either reduce its involvement in the management of the school company or resign as a member of the company in the following circumstances:—

- (a) the school is subject to special measures;
- (b) the school has serious weaknesses;
- (c) the supervising authority considers that the school is likely to become subject to special measures or be assessed as having serious weaknesses within the next year; or
- (d) the school has a deficit budget.

(2) A supervising authority must direct all the governing bodies of maintained schools who are members of a school company to resign as a member of the company if it fails to comply with a direction under regulation 29(b).

Procedures relating to directions from a supervising authority

31.—(1) Before a supervising authority may direct a governing body to either reduce its involvement in the management of a school company or resign as a member of the company, it must give the governing body and the company a warning notice stating its intention to make such a direction and its reasons for doing so. Such a warning notice must be served at least 28 days before the direction is issued.

(2) The governing body or the company may make representations to the supervising authority following receipt of a warning notice, stating why they consider the intended direction to be inappropriate. Any such representations must be served on the supervising authority, in writing, within 14 days of receipt of the warning notice.

Direction to a governing body to reduce its involvement in the management of a school company

32. Where a supervising authority directs a governing body to reduce its involvement in the management of the company the governing body must:—

- (a) give notice as soon as practicable to the company and to each of the company members that it has been so directed;
- (b) secure that employees of the governing body or of the local education authority who are employed to work at the school are not actively engaged in the company's affairs within 28 days of the direction, without prejudice to any right of the governing body to be represented at meetings of the members; and
- (c) cease to make any payments to the school company unless such payments are required to settle outstanding liabilities or to pay for goods, facilities or services required by the school.

Direction to a governing body to resign from a school company

33. Where a supervising authority directs a governing body to resign as a member of the company the governing body shall, within 7 days of the direction, give the company 12 weeks notice of its resignation. During that notice period it shall, as soon as practicable:—

- (a) secure that employees of the governing body or of the local education authority who are employed to work at the school, are not actively engaged in the company's affairs, without prejudice to any right of the governing body to be represented at meetings of the members;
- (b) cease to make any payments to the school company unless such payments are required to settle outstanding liabilities or to pay for goods, facilities or services required by the school.

Notification and revocation of a direction to a governing body

34.—(1) Where a supervising authority directs a governing body to resign as a member of the company, the supervising authority must notify the company of the direction to the governing body within 7 days of issuing the direction.

(2) A supervising authority may, at any time, revoke a direction given to a governing body under regulation 29 by informing the governing body, in writing, that the direction is revoked.