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STATUTORY INSTRUMENTS

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**2003 No. 2045**

**EDUCATION, ENGLAND**

**The Education Act 2002 (Modification and  
Transitional Provisions) (England) Regulations 2003**

<i>Made</i>	- - - -	<i>5th August 2003</i>
<i>Laid before Parliament</i>		<i>11th August 2003</i>
<i>Coming into force</i>	- -	<i>1st September 2003</i>

In exercise of the powers conferred upon the Secretary of State by section 499(6) and (7) of the Education Act 1996<sup>(1)</sup>, and section 214 of the Education Act 2002<sup>(2)</sup>, the Secretary of State for Education and Skills hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education Act 2002 (Modification and Transitional Provisions) (England) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations apply only in relation to England.

**Interpretation**

2. In these Regulations—

“the 1996 Act” means the Education Act 1996;

“the 1998 Act” means the School Standards and Framework Act 1998<sup>(3)</sup>; and

“the 2002 Act” means the Education Act 2002.

**Modification of section 579(1) of the 1996 Act**

3. In section 579(1) of the 1996 Act<sup>(4)</sup> (General interpretation), in the definition of “proprietor” after “foundation special school” there is inserted “or a maintained nursery school.”.

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(1) 1996 c. 56. Sub-sections (6) and (7) of section 499 were inserted by section 9 of the 1998 Act. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) the powers conferred by these provisions are exercisable by the Secretary of State only in relation to England.

(2) 2002 c. 32. By virtue of the definition of “regulations” in section 212(1), these Regulations made by the Secretary of State apply only in relation to England.

(3) 1998 c. 31.

(4) As amended by sub-section (1) of section 140 of, and paragraph 183(a)(iii) of Schedule 30 to, the 1998 Act.

#### **Modification of section 127(6) of the 1998 Act**

4. In section 127(6) of the 1998 Act<sup>(5)</sup> there is inserted after paragraph (m)(6)—  
“(n) section 30(3) and (4) of the 2002 Act (Governors' reports and other information),”.

#### **Revocations**

5. The Education (Head Teachers) Regulations 1999<sup>(7)</sup> are hereby revoked in relation to England.

#### **Transitional provision for schools with head teachers of departments**

6.—(1) This regulation applies where immediately before 1st September 2003 a school is a relevant school.

(2) In the period commencing on 1st September 2003 and ending immediately before the relevant date in relation to a relevant school—

- (a) the school may continue to be organised in two or more separate departments, each with a head teacher;
- (b) a person holding the post of head teacher of a department of the school may continue in that post; and
- (c) for the purposes of any provision made by or under the 1996 Act, the 1998 Act or the 2002 Act which confers functions on or in relation to the head teacher of a school, any reference to a “head teacher” or to a “head teacher of a school” shall include a reference to a head teacher of a department of a relevant school.

(3) On the relevant date in relation to a relevant school—

- (a) the provisions of paragraph (2) shall cease to have effect in relation to the school;
- (b) any post of head teacher of a department of the school shall cease to exist; and
- (c) there shall be a single post of head teacher of the school.

(4) In this regulation—

“maintained school” shall be interpreted in accordance with section 20(7) of the 1998 Act;  
“relevant date” means the date on or after 1st September 2003 on which one of the head teachers of a relevant school ceases to hold the post of a head teacher of a department of the school; and  
“relevant school” means a maintained school which immediately before 1st September 2003 was organised in two or more separate departments each with a head teacher.

#### **Amendment of the Parent Governor Representatives (England) Regulations 2001**

7. The Parent Governor Representatives (England) Regulations 2001<sup>(8)</sup> are amended by—
- (a) in regulation 2(1)—
    - (i) omitting the definition of “parent governor”; and
    - (ii) in the definition of “types of school” omitting the words “, excluding nursery schools which are special schools”; and
  - (b) in regulation 2(2)—

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<sup>(5)</sup> As amended by paragraph 110 of Schedule 21 to the 2002 Act.

<sup>(6)</sup> Commenced on 1st September 2003 by Order S.I. [2003/1667](#).

<sup>(7)</sup> [SI 1999/1287](#).

<sup>(8)</sup> [SI 2001/478](#).

- (i) in the first column of the table, substituting for “ “maintained school” ” the words “ “maintained school” and “parent governor” ”; and
- (ii) in the second column of the table substituting for “section 20(7) of the 1998 Act” the words “section 499(9) of the 1996 Act (as amended by the Education Act 2002)”.

5th August 2003

*Stephen Twigg*  
Parliamentary Under Secretary of State,  
Department for Education and Skills

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations apply to England only. Regulations 3 and 4 modify in relation to England—

- (a) the definition of “proprietor” in section 579 of the 1996 Act so that it includes a reference to governing bodies of maintained nursery schools;
- (b) Section 127 of the 1998 Act by adding to the list of relevant functions to be covered by the Code of Practice for local education authorities and maintained schools, reports by governors and the head teacher made under section 30 of the 2002 Act. The new paragraph (n) that is prospectively inserted in section 127(6) of the 1998 Act by paragraph 110(3)(c) of Schedule 21 to the 2002 Act is defective and it is not intended that paragraph 110(3)(c) should ever be brought into force in relation to England so far as it relates to paragraph (n).

Regulation 5 revokes the Education (Head Teachers) Regulations 1999 in relation to England.

Regulation 6 makes transitional provisions for schools in England that, immediately before the Regulations come into force, are organised in two or more departments, each with a separate head teacher, allowing them to continue to be so organised until one of the head teachers leaves when the posts of head teacher of a department of the school will cease to exist. Under this regulation any provision made by or under the Education Acts that confers functions on or in relation a head teacher shall have effect on or in relation to the head teacher of a department.

Regulation 7 makes amendments to the definitions in the Parent Governor Representative (England) Regulations 2001 that are consequent on the commencement of the substitution of section 499(9) of the 1996 Act by the 2002 Act. Coupled with a transitional provision included in the 7th Commencement Order (SI 2003/[ ]), the amendments ensure all parent governors of maintained schools (including maintained nursery schools) are potentially eligible for election or appointment as parent governor representatives on local authority education committees, whether or not the governing body has been reconstituted under the School Governance (Constitution) (England) Regulations 2003.