

SCHEDULES

SCHEDULE 6

Section 70

GOVERNING BODIES CONSISTING OF INTERIM EXECUTIVE MEMBERS

Interpretation of Schedule

- 1 (1) In this Schedule—
- “the appropriate authority” means—
- (a) where this Schedule applies by virtue of a notice under section 65(1), the local education authority who gave the notice, and
 - (b) where this Schedule applies by virtue of a notice under section 69(1), the Secretary of State;
- “existing governors”, in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the governors who hold office immediately before the governing body becomes constituted in accordance with this Schedule;
- “the interim period”, in relation to a school in respect of which a notice under section 65(1) or 69(1) has been given, means the period during which the governing body is constituted in accordance with this Schedule;
- “a normally constituted governing body” means a governing body constituted in accordance with regulations made by virtue of section 19 of EA 2002 (governing bodies).
- (2) In this Schedule any reference to the discontinuance of a maintained school is a reference to the local education authority ceasing to maintain it.

Governing body to consist of members appointed by appropriate authority

- 2 (1) The governing body of the school shall consist of members appointed by the appropriate authority, instead of being constituted in accordance with regulations made by virtue of section 19 of EA 2002.
- (2) In the following provisions of this Schedule—
- (a) the governing body as constituted in accordance with this Schedule is referred to as “the interim executive board”, and
 - (b) the members of the governing body as so constituted are referred to as “interim executive members”.

Effect of notice under section 65(1) or 69(1)

- 3 (1) On the date specified in the notice under section 65(1) or 69(1), the existing governors vacate office.
- (2) Sub-paragraph (1) does not prevent the appointment of an existing governor as an interim executive member.

Status: This is the original version (as it was originally enacted).

- (3) During the interim period, any reference in any provision contained in, or made under, the Education Acts to a governor or foundation governor of a school has effect, in relation to the school, as a reference to an interim executive member.
- (4) During the interim period, section 83 of SSFA 1998 (modification of provisions making governors of foundation or voluntary school ex officio trustees) has effect in relation to the school with the substitution for paragraphs (a) to (c) of a reference to the interim executive members.

Interim executive members

- 4 (1) The number of interim executive members must not be less than two.
- (2) The initial appointment of interim executive members must be made so as to take effect on the date specified in the relevant notice.
- (3) The appropriate authority may appoint further interim executive members at any time during the interim period.
- 5 (1) Every appointment of an interim executive member must be made by an instrument in writing setting out the terms of his appointment.
- (2) An interim executive member—
 - (a) holds office in accordance with the terms of his appointment and subject to paragraph 18, and
 - (b) may at any time be removed from office by the appropriate authority for incapacity or misbehaviour.
- (3) The terms of appointment of an interim executive member may provide for his appointment to be terminable by the appropriate authority by notice.

Duty of appropriate authority to inform other persons

- 6 (1) The appropriate authority must give a copy of the notice under section 65(1) or 69(1) and of every instrument of appointment of an interim executive member—
 - (a) to every interim executive member,
 - (b) to every existing governor of the school,
 - (c) where the local education authority are the appropriate authority, to the Secretary of State,
 - (d) where the Secretary of State is the appropriate authority, to the local education authority,
 - (e) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, to the appropriate diocesan authority, and
 - (f) in the case of any other foundation or voluntary school, to the person or persons by whom the foundation governors are appointed.
- (2) A failure to comply with sub-paragraph (1) does not invalidate the notice or appointment.

Power to specify duration of interim period

- 7 The appropriate authority may in the notice under section 65(1) or 69(1) specify the duration of the interim period.

Chairman

- 8 The appropriate authority may nominate one of the interim executive members to be chairman of the interim executive board.

Remuneration and allowances

- 9 The appropriate authority may pay to any interim executive member such remuneration and allowances as the appropriate authority may determine.

Duty of interim executive board

- 10 (1) During the interim period, the interim executive board shall conduct the school so as to secure, so far as is practicable to do so, the provision of a sound basis for future improvement in the conduct of the school.
- (2) Sub-paragraph (1) is without prejudice to the other duties of the interim executive board as governing body.

Proceedings of interim executive board

- 11 (1) The interim executive board may determine their own procedure.
- (2) The interim executive board may make such arrangements as they think fit for the discharge of their functions by any other person.

Effect on suspension of delegated budget

- 12 (1) If, immediately before the date specified in the notice under section 65(1) or 69(1), the school does not have a delegated budget, the suspension of the governing body's right to a delegated budget is by virtue of this sub-paragraph revoked with effect from that date.
- (2) If a notice under paragraph 1 of Schedule 15 to SSFA 1998 (suspension of delegated budget for mismanagement etc) has been given to the governing body before the date specified in a notice under section 65(1) or 69(1) but has not yet taken effect, the notice under that paragraph ceases to have effect on that date.
- (3) During the interim period, the local education authority may not exercise the power conferred by section 66 (power to suspend right to delegated budget).
- (4) Sub-paragraph (1) is to be construed in accordance with section 49(7) of SSFA 1998.

Exclusion of certain statutory provisions

- 13 (1) Regulations made by virtue of subsection (2) or (3) of section 19 of EA 2002 (governing bodies) shall not apply in relation to the interim executive board.

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- (2) The instrument of government of the school shall not, so far as it relates to the constitution of the governing body, have effect in relation to the interim executive board.
- 14 During the interim period—
- (a) the local education authority may not exercise any power conferred by section 64 (power to appoint additional governors), and
 - (b) the Secretary of State may not exercise any power conferred by section 67 (power to appoint additional governors).

Closure of school

- 15 (1) At any time during the interim period, the interim executive board may, if they think fit, make a report to the local education authority and the Secretary of State recommending that the school be discontinued, and stating the reasons for that recommendation.
- (2) The interim executive board may not—
- (a) publish under section 15(2) proposals to discontinue the school, or
 - (b) serve notice under section 30 of SSFA 1998.
- 16 (1) Where during the interim period—
- (a) the Secretary of State gives a direction under section 17(1) or 68(1) in relation to the school, or
 - (b) the local education authority determine to discontinue the school,
- the interim period is to continue until the discontinuance date, even where it would otherwise end before that date.
- (2) In this paragraph “the discontinuance date” means—
- (a) the date on which proposals for discontinuing the school are implemented under Part 4 of Schedule 2,
 - (b) the date on which the school is discontinued under section 30 of SSFA 1998, or
 - (c) the date specified in the direction under section 17(1) or 68(1),
- as the case may be.

Notice of resumption of government by normally constituted governing body

- 17 (1) Where—
- (a) the notice under section 65(1) or 69(1) did not specify the duration of the interim period, and
 - (b) paragraph 16 does not apply,
- the appropriate authority may give notice to the persons mentioned in sub-paragraph (2) specifying a date on which the governing body are to become a normally constituted governing body.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) every interim executive member,
 - (b) where the local education authority are the appropriate authority, the Secretary of State,

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- (c) where the Secretary of State is the appropriate authority, the local education authority,
- (d) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
- (e) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

Time when interim executive members cease to hold office

- 18 (1) The interim executive members vacate office—
- (a) in a case where paragraph 16 applies, on the discontinuance date within the meaning of that paragraph,
 - (b) in a case where that paragraph does not apply and the notice under section 65(1) or 69(1) specified the duration of the interim period, at the end of the specified period, and
 - (c) in any case, on the date specified under paragraph 17(1).
- (2) Sub-paragraph (1) does not prevent the termination of the appointment of an interim executive member at any earlier time under paragraph 5(2)(b) or in accordance with the terms of his appointment.

Establishment of normally constituted governing body

- 19 (1) Where interim executive members are to vacate office on the date referred to in paragraph 18(1)(b) or (c), the local education authority must make arrangements providing for the constitution of the governing body on and after that date.
- (2) The Secretary of State may by regulations make provision with respect to the transition from an interim executive board to a normally constituted governing body, and may in connection with that transition—
- (a) modify any provision made under any of sections 19, 20 and 23 of EA 2002 or by Schedule 1 to that Act,
 - (b) apply any such provision with or without modifications, and
 - (c) make provision corresponding to or similar to any such provision.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes, in particular, provision enabling governors to be elected or appointed, and to exercise functions, before the end of the interim period.