

SCHEDULE 7

TRANSITIONAL AND SAVINGS PROVISIONS RELATING TO SCHOOL GOVERNMENT

Interpretation

1. In this Schedule—

- (a) “the First Transitional Regulations” means the Education (School Government) (Transition to New Framework) Regulations 1998⁽¹⁾;
- (b) “the Second Transitional Regulations” means the Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999⁽²⁾;
- (c) “the School Organisation Regulations” means the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999⁽³⁾;
- (d) “county school”, “voluntary school”, “maintained special school” and “grant-maintained school” have the same meanings as in the 1996 Act;
- (e) “instrument of government”, unless the context otherwise requires, has the meaning in section 37(1) of the 1998 Act.

Savings relating to continuation and composition of governing bodies

2. In cases where the instrument of government for a maintained school is not made before 1st September 1999, the repeal of Parts II and III and section 344 of, and Schedule 28 to, the 1996 Act is without prejudice to the continued effect, in accordance with regulation 19 of the First Transitional Regulations, of—

- (a) the provisions of the 1996 Act relating to the composition of governing bodies, disqualification of governors and instruments of government; and
- (b) any regulations and instruments of government in force under those provisions (or as if made under those provisions) immediately before 1st September 1999,

for the purpose of determining the composition of and disqualification requirements relating to any governing body to which regulation 19 of the First Transitional Regulations applies, pending reconstitution of the governing body under the instrument of government.

3. The repeal of Part II of the 1996 Act is without prejudice to the continuation in existence of the temporary governing body of a school or proposed school under regulation 13 of the Second Transitional Regulations and the continued effect of—

- (a) the provisions of the 1996 Act relating to the composition of temporary governing bodies, and qualification and disqualification of temporary governors;
- (b) any regulations in force under those provisions immediately before 1st September 1999; and
- (c) any arrangement under section 96 or 97 of the 1996 Act in force immediately before 1st September 1999,

for the purpose of determining the composition of that governing body from time to time and the circumstances in which a person is qualified or disqualified for office as a member of such a governing body.

4. The repeal of Part II of the 1996 Act is without prejudice to the following—

(1) S.I.1998/2763.
(2) S.I. 1999/362.
(3) S.I. 1999/704.

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(1) the continuation in existence, for the purposes of regulation 13 of the School Organisation Regulations, of a temporary governing body established in pursuance of an arrangement made under section 96(3) or 97(2) of the 1996 Act in anticipation of approval of proposals or the determination that they should be implemented;

(2) in relation to any temporary governing body referred to in paragraph (1) the continued effect of—

- (a) the provisions of the 1996 Act relating to the composition of temporary governing bodies and qualification and disqualification of temporary governors;
- (b) any regulations in force under those provisions immediately before 1st September 1999; and
- (c) any arrangement under section 96 or 97 of the 1996 Act in force immediately before 1st September 1999,

for the purpose of determining the composition of that governing body from time to time and the circumstances in which a person is qualified or disqualified for office as a member of such a governing body;

(3) in relation to any temporary governing body referred to in paragraph (1) the continued effect of sections 96(4) or 97(7) of the 1996 Act relating to termination of the arrangement referred to in paragraph (1).

5. The repeal of Part III of the 1996 Act is without prejudice to the continuation in existence as a body corporate of a governing body under regulation 30 of the Second Transitional Regulations, and the continued effect in accordance with that regulation, of—

- (a) the provisions of the 1996 Act relating to the composition of governing bodies of grant-maintained schools, disqualification for office of members of such governing bodies and instruments of government for grant-maintained schools, and
- (b) any regulations and instruments of government in force under those provisions immediately before 1st September 1999,

for the purpose of determining the composition of, and disqualification requirements relating to, that governing body pending reconstitution under the instrument of government.

6.—(1) Sub-paragraph (2) applies in any case where the governing body of a school conducted by a grouped governing body (within the meaning of the Second Transitional Regulations) on 31st August 1999 are not constituted under an instrument of government before 1st September 1999.

(2) Where this paragraph applies, the repeal of Parts II and III of the 1996 Act is without prejudice to the continuation in existence as a body corporate of the governing body under regulation 49 of the Second Transitional Regulations and the continued effect in accordance with that regulation, of—

- (a) the provisions of the 1996 Act relating to the composition and name of grouped governing bodies, disqualification for office of members of such governing bodies and instruments of government for grouped schools;
- (b) any regulations and instruments of government in force under those provisions (or as if made under those provisions) immediately before 1st September 1999; and
- (c) regulation 41 of the Second Transitional Regulations,

for the purpose of determining the composition and name of, and disqualification requirements relating to, that governing body.

(3) In the case of any group of schools conducted by a grouped governing body (within the meaning of the Second Transitional Regulations) on 31st August 1999, where each such school has a governing body constituted under an instrument of government from midnight on that day, the repeal of Parts II and III of the 1996 Act is without prejudice to the continuation in existence as

a body corporate of that grouped governing body pending dissolution under regulation 50 of the Second Transitional Regulations.

Date of implementation of proposals to establish a new school

7. The repeal of Part II of the 1996 Act is without prejudice to the Secretary of State's power to make a determination under section 99(2) of that Act concerning the date on which the proposals for the establishment of the school are implemented.

Transfers under Schedule 7 to the 1996 Act

8. The repeal of Schedule 7 to the 1996 Act is without prejudice to the continued application of paragraphs 11 and 12 of that Schedule to transfers effected by that Schedule.

Governing body name

9.—(1) Paragraph (2) applies in relation to the governing body of any maintained school which was a county, voluntary or maintained special school (other than a school grouped under section 89 of the 1996 Act) immediately before 1st September 1999, if the instrument of government is not made before 1st September 1999.

(2) During the period between 1st September 1999 and the making of the instrument of government, the governing body shall be known as “the governing body of..” with the addition of the name of the school.

Clerks and chairmen

10. The repeal of Parts II and III and section 344 of and Schedule 28 to the 1996 Act and the commencement of Part II of the 1998 Act shall not cause any—

- (a) clerk to a governing body or temporary governing body; or
- (b) chairman or vice-chairman of a governing body or temporary governing body,

in office immediately before 1st September 1999 to cease to hold office as such on 1st September 1999, provided he meets the requirements of any regulations made under Schedule 11 to the 1998 Act.

Governors as trustees

11.—(1) In cases where the instrument of government for a maintained school is not made before 1st September 1999, the repeal of section 180 of the 1996 Act is without prejudice to the continuation as trustees of foundation governors and governors appointed by the local education authority or any minor authority, until the governing body is reconstituted under an instrument of government.

(2) In paragraph (1) “foundation governors and governors appointed by the local education authority or any minor authority”, is to be interpreted in accordance with the 1996 Act.

Admissions and pupil discipline provisions in instruments and articles of government

12.—(1) Subject to sub-paragraph (2), the commencement of section 140(4) of the 1998 Act and the repeal of provisions relating to instruments of government in Parts II and III of the 1996 Act are without prejudice to the transitional and saving provisions—

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- (a) relating to the admission of children to maintained schools in Schedule 4 to the School Standards and Framework Act 1998 (Commencement No. 6 and Saving and Transitional Provisions) Order 1999(4); or
 - (b) relating to pupil exclusions in Schedule 6 to this Order.
- (2) For the purposes of the transitional and savings provisions referred to in sub-paragraph (1) (a), any reference in a former grant-maintained school's articles of government to a committee constituted in accordance with the provisions of the instrument of government for the purpose of determining applications for admission to the school shall be treated as a reference to an admissions committee established for such purposes pursuant to regulations under Schedule 11 to the 1998 Act.

(4) 1999 No. 1016 (c. 29).