

SCHEDULES

SCHEDULE 2

NEW SCHOOLS

PART II

SCHOOL GOVERNMENT

Transition from temporary governing body to governing body

- 3 (1) The requirement for there to be an instrument of government for a school to which section 1 of this Act applies shall take effect in relation to a new school from the date on which the relevant proposal is implemented.
- (2) When that requirement takes effect, paragraph 2(2) above shall apply in relation to the governing body of the school as it applied in relation to its temporary governing body and shall continue to apply, for the purposes of determining (at any time after the governing body is first constituted) what provision would be required to be made by a new instrument of government for the school, until such time as—
- (a) the number of registered pupils at the school reaches the maximum referred to in paragraph 2(2); or
 - (b) the local education authority exercise the power conferred on them by virtue of sub-paragraph (3) below.
- (3) The instrument of government for every school to which paragraph 2(2) above applies at the time when it is made shall provide for the local education authority to have power to direct that that paragraph shall cease to apply in relation to the school.
- (4) The local education authority shall secure that the governing body of any new school is constituted—
- (a) as soon as is reasonably practicable after the requirement for there to be an instrument of government for the school takes effect; and
 - (b) in any event not later than the last day of the term in which pupils first attend the new school or (as the case may be) first attend the school after it becomes a maintained school.
- (5) Where the requirement for there to be an instrument of government for a new school has taken effect, the temporary governing body of the school shall, until such time as the governing body is constituted—
- (a) continue in existence (notwithstanding that the arrangement under which they were constituted has come to an end by virtue of paragraph 5 below); and
 - (b) be treated as if they were the governing body.

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- (6) Where a new school is grouped under section 9 of this Act, with effect from the time when an instrument of government is required for the school, any consent given by, or consultation with, the temporary governing body shall be treated for the purposes of section 10(5) and (6) of this Act as having been given by, or (as the case may be) held with, the governing body.
- (7) Where any question arises as to the date which is to be taken to be the implementation date of any such proposal for the purposes of this paragraph, it shall be determined by the Secretary of State.
- 4 (1) Before making any order under section 1 of this Act in respect of a new school, the local education authority shall consult the temporary governing body and head teacher.
- (2) Before making any such order in respect of a new school which will be a voluntary school, the authority shall—
- (a) secure the agreement of the temporary governing body to the terms of the proposed order ; and
 - (b) if it embodies or varies an instrument of government, secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
- (3) Where a local education authority propose to make any such order in respect of a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (4) On any reference to him under this paragraph the Secretary of State shall give such direction as he thinks fit.

Duration of arrangement for temporary governing body

- 5 (1) Every arrangement shall (if it has not been brought to an end under sub-paragraph (2) below) come to an end when the requirement for there to be an instrument of government for the new school first has effect.
- (2) Where an arrangement has been made by virtue of section 12(3) or (4) of this Act and
- (a) the proposal in question is withdrawn ;
 - (b) the Secretary of State has decided not to approve that proposal or (as the case may be) not to approve the school as a special school; or
 - (c) the local education authority have, under section 12(7) of the 1980 Act, determined not to implement that proposal;
- the occurrence of that event shall bring the arrangement to an end.

Composition of temporary governing body

- 6 (1) No local education authority shall make an arrangement in respect of a new school which will be a controlled school without the agreement of the promoters as to the provision which will be made in relation to the temporary foundation governors; and in the event of any disagreement between the authority and the promoters in respect of that provision, either of them may refer the matter to the Secretary of State.
- (2) No local education authority shall make an arrangement in respect of a new school which will be an aided school without the agreement of the promoters as to the

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composition of the temporary governing body; and in the event of any disagreement between the authority and the promoters as to the composition of that body, either of them may refer the matter to the Secretary of State.

- (3) On any reference under this paragraph, the Secretary of State shall give such direction as he thinks fit.

Appointment of temporary parent and teacher governors

- 7 (1) The temporary parent governors for a new school shall, subject to sub-paragraph (2) below, be appointed—
- (a) where the school will be a county, controlled or maintained special school, by the local education authority ; and
 - (b) where it will be an aided school, by the promoters.
- (2) Where—
- (a) two or more schools have been, or are to be, discontinued (" the discontinued schools "); and
 - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school;
- the local education authority may (subject to sub-paragraph (3) below) provide for any of the governing bodies of the discontinued schools to appoint some or all of the temporary parent or teacher governors of the new school.
- (3) No provision may be made under sub-paragraph (2) above for the appointment of temporary parent or teacher governors of a new school which will be an aided school without the agreement of the promoters; and in the event of any disagreement between the authority and the promoters as to whether any such provision should be made, either of them may refer the matter to the Secretary of State.
- (4) On any reference under sub-paragraph (3) above, the Secretary of State shall give such direction as he thinks fit.
- (5) Before making any provision under sub-paragraph (2) above for the appointment of temporary parent or teacher governors of a new school which will be a controlled school, the local education authority shall consult the promoters.
- (6) No person shall be appointed under sub-paragraph (1) or (2) above as a temporary parent governor of a new school unless—
- (a) he is the parent of a child who is likely to become a registered pupil at the school; or
 - (b) where it is not reasonably practicable to appoint such a person, he is the parent of a child of compulsory school age.
- (7) No person shall be appointed under sub-paragraph (1) as a temporary parent governor of a new school if he is—
- (a) an elected member of the authority ;
 - (b) an employee of the authority or of the governing body of any aided school maintained by the authority ; or
 - (c) a co-opted member of any education committee of the authority.

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Temporary teacher governors

- 8 (1) Subject to paragraph 7(2) above, the temporary teacher governors of a new school shall be co-opted by a resolution passed at a meeting of those temporary governors who have not themselves been co-opted.
- (2) No person shall be appointed as a temporary teacher governor of a new school unless he is employed as a teacher in a school maintained by a local education authority.

Duty to appoint suitably experienced members

- 9 (1) Any person appointing a person as a temporary governor of a new school shall have regard to the desirability of that person being suitably experienced.
- (2) For the purposes of this paragraph, a person is suitably experienced if he has served as a governor or temporary governor of a school and, in particular (in a case where registered pupils at another school which has been, or is to be, discontinued are expected to transfer to the new school), if he has served as a governor or temporary governor of that other school.

Proceedings etc.

- 10 (1) The proceedings of a temporary governing body shall not be invalidated by—
- (a) any vacancy among their number; or
 - (b) any defect in the appointment of any temporary governor.
- (2) Any member of a temporary governing body may at any time resign his office, or be removed from office, in the same way as a member of a governing body constituted under an instrument of government.
- (3) The minutes of the proceedings of any temporary governing body shall be open to inspection by the local education authority.
- (4) The Secretary of State may by regulations make similar provision in relation to temporary governing bodies and their members as may be made in relation to governing bodies and their members under section 8 of this Act.

Miscellaneous

- 11 (1) The qualification of any person for appointment as a temporary governor, of a particular category, of any new school shall not have the effect of disqualifying him for appointment as a temporary governor, of any other category, of that school.
- (2) No person shall at any time hold more than one temporary governorship of the same school.
- (3) Where any temporary governor is to be appointed by persons acting jointly, the appointment shall be made, in the event of failure on the part of those persons to make an agreed appointment—
- (a) by the Secretary of State ; or
 - (b) in accordance with any direction given by him.
- (4) Subject to paragraph 2(3) above, where temporary governors are required to co-opt one or more persons to be temporary governors, the arrangement under which the

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temporary governing body are constituted shall not make any provision which has the effect of restricting those governors in their choice of person to co-opt.

- (5) Sub-paragraph (4) above does not apply in relation to foundation governors.
- (6) No person shall be qualified for membership of any temporary governing body unless he is aged eighteen or over at the date of his appointment.