



Education and Inspections Act 2006

2006 CHAPTER 40

PART 2

ESTABLISHMENT, DISCONTINUANCE OR ALTERATION OF SCHOOLS

Removal of foundation or reduction in foundation governors

25 Proposals for removal of foundation or reduction in foundation governors

- (1) This section applies to any foundation or foundation special school having a foundation if either or both of the following conditions is met.
- (2) Condition A is that the school was established (whether or not as a foundation or foundation special school) in pursuance of proposals falling to be implemented under Schedule 2.
- (3) Condition B is that the school acquired its foundation in pursuance of proposals falling to be implemented under regulations under section 24.
- (4) The governing body of any foundation or foundation special school to which this section applies may at any time publish proposals under this section for either or both of the following alterations to the school—
 - (a) the removal of the foundation, or
 - (b) the alteration of the instrument of government in such a way that foundation governors will cease to constitute the majority of governors.
- (5) A prescribed proportion of the governors of a foundation or foundation special school to which this section applies may in the prescribed manner require the governing body of the school to publish proposals under this section for either or both of the alterations mentioned in subsection (4).
- (6) Subsection (5) does not require the governing body of a foundation or foundation special school to publish proposals under this section—
 - (a) at any time within a prescribed period beginning with the date on which—

Status: This is the original version (as it was originally enacted).

- (i) proposals for the establishment of the school were implemented under Schedule 2, or
 - (ii) proposals for the acquisition of a foundation, for a relevant change in the instrument of government or for a change of category to foundation school or foundation special school were implemented under regulations under section 24, or
 - (b) at any time within a prescribed period beginning with the date on which previous proposals published under this section in pursuance of a requirement under subsection (5) were rejected by the governing body in accordance with regulations under section 26.
- (7) In subsection (6)(a)(ii) “relevant change”, in relation to the instrument of government of a school, is to be read in accordance with section 22(2).
- (8) In this section “foundation” means a foundation established otherwise than under SSFA 1998.

26 Proposals under section 25: procedure

- (1) Regulations may make provision about the publication and determination of proposals under section 25.
- (2) The provision that may be made includes provision—
- (a) about the information to be included in, or provided in relation to, the proposals;
 - (b) about consultation on the proposals;
 - (c) about the manner in which proposals are to be published under section 25;
 - (d) for the making of objections to or comments on the proposals;
 - (e) for the withdrawal of proposals in prescribed cases;
 - (f) for the consideration of the proposals by the governing body;
 - (g) enabling the governing body to approve or reject the proposals;
 - (h) enabling the governing body to reject any proposals published in pursuance of a requirement under section 25(5) (“required proposals”) only by a decision made with the support of a prescribed proportion of the governors;
 - (i) for the approval of required proposals given in the prescribed manner by a prescribed proportion of the governors to be treated as approval by the governing body;
 - (j) for the approval of proposals either without modifications or in prescribed cases with modifications of a prescribed kind;
 - (k) as to the manner in which, and time within which, anything authorised or required by the regulations must be done.
- (3) Regulations under this section may in prescribed cases—
- (a) require the governing body to ensure that matters relating to—
 - (i) any transfer which may be required by virtue of subsection (2)(b) of section 27, or
 - (ii) any payment which might be required by virtue of subsection (4) or (5) of that section,
 are agreed or determined before the proposals are published, and
 - (b) enable or require any such matter to be referred to the adjudicator for determination before the proposals are published.

- (4) Regulations under this section may require any prescribed person, in exercising functions under the regulations, to have regard to any guidance given from time to time by the Secretary of State.

27 Proposals under section 25: implementation

- (1) Regulations may make provision in connection with the implementation of proposals under section 25 which have been approved in accordance with regulations under section 26.
- (2) Regulations under this section may, in particular—
- (a) make provision for the revision or replacement of the school’s instrument of government and the reconstitution of its governing body;
 - (b) make provision for the transfer of property, rights and liabilities;
 - (c) make provision about the manner in which, and time within which, anything required or authorised by the regulations must be done.
- (3) Regulations made by virtue of subsection (2)(b) may make provision about any of the matters mentioned in section 24(5)(a) to (i).
- (4) Where—
- (a) any land forming part of the school premises (“the excluded land”) is not transferred to the governing body, and
 - (b) the governing body, a local education authority or a prescribed person has incurred capital expenditure in relation to the excluded land or in relation to other land the proceeds of the disposal of which were used to acquire or enhance the value of the excluded land,
- regulations under this section may authorise or require the foundation to pay any part of the value of the excluded land to the governing body, the local education authority or a prescribed person.
- (5) Where—
- (a) any land forming part of the school premises (“the transferred land”) is transferred to the governing body, and
 - (b) the foundation has incurred capital expenditure in relation to the transferred land or in relation to other land the proceeds of the disposal of which were used to acquire or enhance the value of the transferred land,
- regulations under this section may authorise or require the governing body to pay any part of the value of the transferred land to the foundation.
- (6) Regulations under this section may require any prescribed person, in exercising functions under the regulations, to have regard to any guidance given from time to time by the Secretary of State.
- (7) The implementation of proposals under section 25 is not to be taken as authorising any change in the religious character of the school or the loss of religious character.
- (8) In this section “foundation” means a foundation established otherwise than under SSFA 1998.