

---

STATUTORY INSTRUMENTS

---

**1989 No. 1470**

**EDUCATION, ENGLAND AND WALES**

**The Education (Proposed Further and Higher  
Education Institutions) Regulations 1989**

<i>Made</i>	- - - -	<i>9th August 1989</i>
<i>Laid before Parliament</i>		<i>11th August 1989</i>
<i>Coming into force</i>	- -	<i>1st September 1989</i>

In exercise of the powers conferred on the Secretary of State by section 154 of the Education Reform Act 1988(1), the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Education (Proposed Further and Higher Education Institutions) Regulations 1989 and shall come into force on 1st September 1989.

(2) In these Regulations—

“the Act” means the Education Reform Act 1988;

references to a proposed institution are references to an institution of further or higher education proposed to be established by a local education authority which, in the financial year in which it is established, will be required to be covered by a scheme by virtue of section 139(4) of the Act; and

references to schemes are references to schemes for planning and funding locally funded further and higher education prepared by local education authorities under section 139 of the Act.

**Temporary governing bodies**

2.—(1) Sections 151 and 152 of the Act (which concern instruments and articles of government for maintained further and higher education institutions) shall have effect in relation to proposed institutions subject to the modifications that—

(a) any reference to an institution shall be treated as a reference to a proposed institution; and

(b) any reference to the governing body of an institution shall be treated as a reference to the temporary governing body of a proposed institution constituted in accordance with the provisions of those sections as modified by these Regulations and subject, in particular, to paragraph (3) below.

(2) The instrument and articles of government required for a proposed institution by those provisions as so modified shall be made by the local education authority not less than six months before the proposed date of establishment of the institution, or within one month of the authority's decision to establish the institution, if later.

(3) The temporary governing body of a proposed institution shall be constituted by the local education authority as soon as is reasonably practicable, and in any event not more than two months after the approval by the Secretary of State of the instrument and articles of government thereof, and in accordance with the provisions of that instrument and those articles, but shall (notwithstanding those provisions) not include—

- (a) representatives of persons who are to be staff of the proposed institution (other than the person who is to be the principal thereof);
- (b) representatives of persons who are to be students of the proposed institution (referred to below as “prospective students”); or
- (c) representatives of persons who are parents of prospective students.

(4) The quorum for any meeting of the temporary governing body shall, notwithstanding any provision in the instrument of government, be forty per cent. of the membership thereof, rounded to the nearest whole figure (fractions of half being rounded up).

**3.—**(1) Local education authorities shall provide for schemes to cover proposed institutions to be established by them, and such schemes shall, subject to paragraph (2), provide for the delegation to the temporary governing body of any such proposed institution of the management of the institution's budget share for any financial year before it becomes established, and during any period when such powers are delegated—

- (a) sections 142, 143, 148, 149 and 150 of the Act shall have effect in relation to such delegation as if references to institutions and to governing bodies were references to proposed institutions and temporary governing bodies; and
- (b) it shall be for the temporary governing body, and not the local education authority, to determine what staff (both full-time and part-time) are or will be required for the purposes of the proposed institution, and to select all such staff for appointment by the local education authority.

(2) The delegation referred to in paragraph (1) above shall only be required in the case of a proposed institution which the local education authority intend to have a full-time equivalent enrolment number for courses of further and higher education of two hundred or more when it is established.

8th August 1989

*John MacGregor*  
Secretary of State for Education and Science

9th August 1989

*Ian Grist*  
Parliamentary Under Secretary of State Welsh  
Office

---

## EXPLANATORY NOTE

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

These Regulations make provision for the government of proposed institutions of further or higher education intended to be established and maintained by a local education authority (“LEA”).

Regulation 2 provides that a proposed institution shall have an instrument and articles of government by applying sections 151 and 152 of the Education Reform Act 1988 (“the Act”) to it as if it were an established institution, subject to certain modifications. The instrument and articles are to be made at least six months before the institution is to be established, or within one month of the decision to establish, if later. It further provides that a proposed institution should have a temporary governing body constituted in accordance with the instrument of government, but that the temporary governing body should not include persons who are to be staff of the institution (other than the principal-designate), persons who are to be students, or parents of prospective students. The temporary governing body is to be established as soon as possible after the approval by the Secretary of State of the instrument and articles of government, and in any event within 2 months of that approval. Its quorum is to be 40 per cent. of the membership.

Regulation 3 provides for the delegation by the LEA to the temporary governing body of the management of the proposed institution’s share of their further and higher education budget and for the application, with necessary modifications, of various provisions in the Act applying to established institutions. It further provides that it is to be for the temporary governing body, and not the LEA, to select staff for the proposed institution. Delegation is only required in the case of a proposed institution which the LEA intends will have two hundred or more full-time equivalent students when it opens.