

---

STATUTORY INSTRUMENTS

---

**1994 No. 1041**

**The Education (Groups of Grant-maintained Schools) Regulations 1994**

**PART II**

**PROCEDURES FOR FORMING OR RE-FORMING GROUPS**

**Initiating procedure for schools to acquire grant-maintained status as newly formed groups**

3.—(1) Subject to paragraph (2) below, where within a period of 28 days each of the governing bodies of the participating schools decide by resolution passed at a meeting of the governing body to hold a ballot of parents on the question whether grant-maintained status should be sought for their school as a member of a group of participating schools they shall in respect of their school—

- (a) secure that a ballot is held in accordance with regulation 6 within the period of 10 weeks beginning with the last resolution date;
- (b) give notice in writing that the ballot is to be held to the local education authority and, where a participating school is a voluntary school, to any person holding property on trust for the purposes of that school.

(2) Where a participating school is a hospital special school paragraph (1) above shall be read, in the case of that school, as if for the words “to hold a ballot of parents on the question whether” there were substituted the word “that” and for items (a) and (b) there were substituted the words “give notice in writing of their decision to the local education authority”; and in this regulation references to paragraph (1) include that paragraph as modified by this paragraph.

(3) Notice under paragraph (1) above must be given within the period of five days beginning with the last resolution date but in determining that period no account shall be taken of—

- (a) Saturday, Sunday, Good Friday and Christmas Day; or
- (b) any day which is a bank holiday in England and Wales.

(4) This regulation does not apply if in the case of the participating schools a ballot on the question whether grant-maintained status should be sought for those schools as a group has been held in accordance with regulation 6 within the period of 12 months ending with the date immediately preceding the last resolution date unless the Secretary of State gives consent in writing for a new ballot to be held.

(5) In this regulation “the last resolution date” means the latest date on which a governing body of a participating school passes the resolution referred to in paragraph (1) above.

**Initiating procedure for schools to acquire grant-maintained status by joining an existing group**

4.—(1) Where the governing body of a school which is eligible for grant-maintained status (not being a hospital special school) decide by a resolution passed at a meeting of that body—

- (i) to seek the consent of the governing body of a group to become a member of that group and, following such consent,
- (ii) to hold a ballot of parents on the question of whether grant-maintained status as an additional member of that group should be sought,

the governing body of that school shall within 14 days of the passing of that resolution give notice to the governing body of that group in writing of the terms of the resolution and seek the consent of the governing body of that group within 42 days of receipt of the notice.

(2) Where the governing body of a hospital special school which is eligible for grant-maintained status decide by a resolution passed at a meeting of that body to seek the consent of the governing body to become a member of that group they shall within 14 days of the passing of that resolution give notice to the governing body of the group in writing of the terms of the resolution and seek their consent within 42 days of receipt of the notice.

(3) The governing body of the group shall decide by a resolution passed at a meeting of that body within that period whether or not to consent to that school joining the group.

(4) If the resolution referred to in paragraph (3) is in favour of the school joining the group the governing body of the group shall give notice to the governing body of the school forthwith.

(5) The governing body of the school (not being a hospital special school) shall secure that a ballot is held in accordance with regulation 6 within the period of 10 weeks beginning with the date of the resolution of the governing body of the group referred to in paragraph (3) above.

(6) The governing body of the school shall give notice in writing that the ballot is to be held (or, in the case of a hospital special school notice in writing of their decision) to the local education authority and, where a participating school is a voluntary school, to any person holding property on trust for the purposes of that school.

(7) Notice under paragraph (6) above must be given within the period of five days beginning with the date on which the governing body of the school were notified of the resolution of the governing body of the group under paragraph (4) above, but in determining that period no account shall be taken of-

- (a) Saturday, Sunday, Good Friday and Christmas Day; or
- (b) any day which is a bank holiday in England and Wales.

(8) This regulation does not apply if a ballot on the question whether grant-maintained status should be sought for the school as a member of the group has been held in accordance with regulation 6 within the period of 12 months ending with the date immediately preceding the date of the resolution of the governing body of the group referred to in paragraph (3) above unless the Secretary of State gives consent in writing for a new ballot to be held.

### **Information**

5.—(1) Where any registered parent of a registered pupil at a balloting school so requests in connection with the holding of a ballot under these Regulations, the governing body of that school shall-

- (a) make available to the parent for inspection (at all reasonable times and free of charge) at the school a list containing the name and address of every registered pupil at that school; and
- (b) supply the parent with a copy of the list.

(2) A governing body shall not disclose to a parent under paragraph (1) above the name and address of any person who has requested the governing body in writing not to disclose that information under that paragraph; and accordingly the name and address of that person shall be excluded from the list there mentioned.

(3) A governing body who in pursuance of paragraph (1) above supply copies of the list there mentioned may charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

(4) In this regulation “balloting school” means a participating school under regulation 3(1) (other than a hospital special school), and a school whose governing body is under a duty to secure that a ballot is held by virtue of regulation 4 or 31.

### **Ballot of parents**

6.—(1) Where the governing body of a school are under a duty by virtue of these Regulations to secure that a ballot is held they shall secure that all necessary arrangements for the ballot are made by such body as may for the time being be prescribed by regulations made under section 28(1) of the 1993 Act(1).

(2) The arrangements shall provide for a secret postal ballot.

(3) The governing body shall secure that the body referred to in paragraph (1) of this regulation take such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—

- (a) given the information in Part I or Part II of Schedule 1 to these Regulations;
- (b) informed that he is entitled to vote in the ballot; and
- (c) given an opportunity to do so.

(4) The governing body shall make available to every person employed to work at the school for inspection (at all reasonable times and free of charge) at the school a document containing the information required by paragraph (3)(a) above to be given to persons eligible to vote in the ballot.

(5) In determining the arrangements they require to be made by the body referred to in paragraph (1) above the governing body shall take into account any guidance given by the Secretary of State under section 28(5) of the 1993 Act and any guidance given by the Secretary of State from time to time as to arrangements he considers appropriate for ballots held in accordance with this regulation.

(6) Where the procedure has been initiated under regulation 3 or 4, the governing body may promote (otherwise than as part of the arrangements made for the ballot) the case for seeking grant-maintained status for the school both generally and as a member of a group and, in doing so, they shall take into account any guidance given by the Secretary of State under section 28(6) of the 1993 Act.

### **Eligibility**

7.—(1) For the purposes of these Regulations a person is eligible to vote in a ballot held in respect of a school if he is a registered parent of a registered pupil at that school.

(2) In paragraph (1) above “registered” means shown in the register kept under section 80 of the Education Act 1944(2) as that register has effect on the date immediately following the end of the period of 14 days beginning with the last resolution date as defined in regulation 3(5) of these Regulations, or, as the case may be, the resolution of the governing body of the group referred to in regulation 4(3).

---

(1) The Regulations currently in force are the Education (Parental Ballots for Acquisition of Grant-maintained Status) (Prescribed Body) Regulations 1992 (S.I.1992/2598).

(2) 1944 c. 31.

### **Announcement of the results of the first ballots**

8. Where the procedure is initiated under regulation 3, the results of the first ballots in the case of each participating school shall be published on the same date as soon as is practicable after all the results are available.

### **Second ballot**

9.—(1) Where in any ballot held in accordance with these Regulations (other than one held by virtue of this regulation)—

- (a) the total number of votes cast by persons eligible to vote is less than 50% of the number of persons eligible to vote; or
- (b) the number of votes cast in favour is the same as the number of votes cast against;

the governing body shall secure that a second ballot is held within the period of 14 days beginning with the date immediately after that on which the result of the ballot is published.

(2) In such a case—

- (a) the result of the first ballot shall be disregarded for the purposes of these Regulations;
- (b) regulation 6 shall apply save that—
  - (i) paragraph (3)(a) thereof shall be omitted,
  - (ii) paragraph (4) thereof shall be read as if the information there referred to were the information given for the purposes of the first ballot.

(3) This regulation shall not apply in respect of any participating school if in the case of each of the other participating schools—

- (a) the number of votes cast against was more than the number cast in favour; and
- (b) the total number of votes cast by persons eligible to vote is 50% or more of the number of persons eligible to vote.

### **Voiding ballots**

10. Section 31 of the 1993 Act (power to declare ballot void for irregularity) shall apply to ballots held under regulation 6 as if—

- (a) the references to sections 28 and 30 in subsection (1)(a) and (1)(c) were to regulations 6 and 9 respectively,
- (b) in subsection 1(b) the words after “section 28” were omitted and there were substituted “of the 1993 Act and regulation 6”, and
- (c) the reference to section 29(1) in subsection (3) were to regulation 7(1).

### **Agreement between some participating schools to propose grant-maintained status as a group**

11.—(1) This regulation applies where in the case of two or more (but not all) participating schools—

- (a) the results of the ballots held in accordance with these Regulations show in each case a simple majority of votes cast (by those eligible to vote in the ballot) in favour of seeking grant-maintained status as a group with the other participating schools; or
- (b) in the case of a hospital special school the governing body have passed a resolution in favour of seeking grant-maintained status as a member of a group with the other participating schools.

(2) The governing body of a participating school where there is in respect of that school a favourable vote or resolution as described in paragraph (1) may decide by resolution passed at a meeting of that body to seek grant-maintained status for their school with all or any of those other participating schools in respect of which there was a favourable vote as described in paragraph (1).

(3) Where the governing bodies of any such participating schools similarly so decide and agree to seek grant-maintained status for their school those governing bodies shall before the end of the period of four months beginning with the date referred to in paragraph (4) below publish proposals under regulation 12.

(4) The date referred to is the date of publication of the latest of the ballots or, in the case of a hospital special school, the latest resolution in respect of all the participating schools (whether or not the governing body have passed a resolution in accordance with paragraph (2) above).

### **Publication of proposals**

**12.—**(1) Paragraph (2) of this regulation applies where—

- (a) (i) the results of ballots held in accordance with regulation 6 show a simple majority of votes cast (by persons eligible to vote in the ballot) in the case of each participating school in favour of seeking grant-maintained status with the other participating schools as a group; or
- (ii) where a participating school is a hospital special school, the governing body in each case have passed a resolution in favour of seeking grant-maintained status with the other participating schools as a group;
- (b) the result of a ballot held in accordance with regulation 6 following a resolution referred to in regulation 4(1) shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of seeking grant-maintained status for the school by joining an existing group;
- (c) the governing body of a hospital special school have passed a resolution in favour of seeking grant-maintained status for the school as an additional member of an existing group and the governing body of that group has passed a resolution in accordance with regulation 4(3); or
- (d) the circumstances described in regulation 11(3) apply.

(2) Before the end of the period of four months beginning with (as the case may be)—

- (a) the date of publication of the last of the ballots of the participating schools or, if later, the last of the resolutions referred to in paragraph (1)(a) above,
- (b) the date of publication of the result of the ballot referred to in paragraph (1)(b) above,
- (c) the resolution of the governing body of the group referred to in paragraph 1(c) above or,
- (d) the date referred to in regulation 11(4) above,

the governing bodies of the participating schools or, as the case may be, the governing body of the school which it is sought should join an existing group shall secure that—

- (i) proposals are published for acquisition of grant-maintained status for the school in accordance with provisions imposed by Schedule 2 to these Regulations; and
- (ii) any notice in respect of the proposals required by Schedule 2 is published.

(3) References in these Regulations to proposals published under these Regulations, in any case where the Secretary of State has modified such proposals, are to the proposals as so modified.

(4) For the purposes of these Regulations proposals published under these Regulations shall be regarded as pending in respect of a school until either the proposals are withdrawn or the Secretary of State makes his determination in respect of them.

### **Initiating procedure for a grant–maintained school to join a group**

13.—(1) Where the governing body of a grant–maintained school decide by a resolution passed at a meeting of that body to seek the consent of the governing body of a group to become a member of that group they shall within 14 days of the passing of that resolution give notice to the governing body of that group in writing of the terms of the resolution and seek the consent of the governing body of that group within 42 days of receipt of the notice.

(2) The governing body of a group which receives notice under paragraph (1) above shall within 42 days of receipt of the notice decide by a resolution passed at a meeting of that body whether or not to consent to the school joining the group.

(3) If the resolution referred to in paragraph (2) above is in favour of the school joining the group the governing body of the group shall give notice to the governing body of the school forthwith.

(4) If the governing body of the school within 28 days of being notified by the governing body of the group in accordance with paragraph (3) above pass a second resolution confirming the resolution referred to in paragraph (1) above, the governing body of the school shall publish proposals in accordance with Schedule 2 to these Regulations.

### **Initiating procedure for grant–maintained schools to form groups**

14. Where–

- (a) each of the governing bodies of the participating grant–maintained schools decide by a resolution passed at a meeting of the governing body to form a group with the other participating grant–maintained schools and at a further meeting of the governing body held not less than 28 days following the first meeting pass a resolution to the same effect (“the second resolution”); and
- (b) the second resolutions in respect of all the participating grant–maintained schools are all passed within a period of 28 days of each other,

the governing bodies shall each be under a duty to secure that proposals and any notices are published in accordance with Schedule 2.

### **Initiating procedure for groups to merge**

15. Where–

- (a) each of the governing bodies of the participating groups decide by a resolution passed at a meeting of the governing body to form a group with the other participating groups and at a further meeting of the governing body held not less than 28 days following the first meeting pass a resolution to the same effect (“the second resolution”), and
- (b) the second resolutions in respect of all the participating groups are all passed within a period of 28 days of each other,

the governing bodies shall each be under a duty to secure that proposals and any notices are published in accordance with Schedule 2.

### **Approval, withdrawal or rejection of proposals**

16.—(1) Proposals required to be published under regulations 12 to 15 may not be withdrawn except with the consent of the Secretary of State and subject to such conditions as he may impose (which may, in particular, require further proposals to be published under these Regulations within such period as the Secretary of State may specify).

(2) Subject to paragraph (5) the Secretary of State–

- (a) may reject any proposals referred to in paragraph (1);

- (b) where the schools in respect of which such proposals are made are eligible for grant-maintained status or have such status on the date of publication of the proposals, may approve them without modification or, after consultation with the existing governing bodies, approve them with such modifications as he thinks desirable.
- (3) Where the Secretary of State rejects any such proposals he may require the governing bodies or body to publish further proposals under these Regulations within such period as he may specify.
- (4) Where the Secretary of State imposes a requirement under paragraph (1) or (3) for the publication of further proposals regulation 12(2) and Schedule 2 to these Regulations shall apply as they apply in the case mentioned in regulation 12(1) but with the following modifications—
  - (i) the four month period referred to in regulation 12(2) shall be taken to refer to the period specified by the Secretary of State for submission of the further proposals required; and
  - (ii) the reference in paragraph 2(1)(a) of Schedule 2 to any ballot shall be taken to refer to the last ballot held in accordance with regulation 6 in relation to a then participating school before the requirement in question was imposed.
- (5) Where the Secretary of State modifies any proposals so as to exclude any of the schools from the proposals he may not approve them without the consent of the existing governing bodies of the schools to which the proposals as modified relate.

### **Incorporation**

- 17.—(1) Where any proposals are approved under regulation 16 then—
  - (a) the persons who immediately before the proposals are approved are named as initial governors; and
  - (b) the existing headteachers of the proposed schools in the group or new group (except any that choose not to be governors ex officio) shall on that date be incorporated as the governing body of the group or new group under the name given in pursuance of paragraph 4(1)(g) of Schedule 2.
- (2) Where any proposals are approved under regulation 16 then, in relation to the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals—
  - (a) references in Part II of Chapter II of the 1993 Act and in these Regulations to the new governing body shall be taken to include a governing body incorporated under this regulation; and
  - (b) any reference in any enactment or instrument or document to the governing body of a school or group, other than an express reference to the new governing body or the governing body incorporated under this regulation shall be read as a reference to the existing governing body of the school or group.
- (3) On the date of implementation of the proposals—
  - (a) any local education authority whose duty it was immediately before that date to maintain any of the schools included in the proposals as a county, voluntary or special school shall cease to have that duty; and
  - (b) any special agreement relating to any of the schools included in the proposals shall cease to have effect.

### **Exercise of powers before date of implementation of proposals**

- 18.—(1) Section 35 of and Schedule 4 to the 1993 Act shall apply in relation to any new governing body incorporated by virtue of regulation 17 of these Regulations or any members of the body subject to the modification in paragraph (2) of this regulation.

(2) Paragraph 2(b) of Schedule 4 shall apply in relation to hospital special schools with the substitution of the words “property other than land” for the words “land and other property”.

**Expenses in connection with proposals for acquisition of grant-maintained status**

**19.** Section 36 of the 1993 Act shall apply in relation to the exercise by a governing body of their functions—

- (a) under regulations 3 to 5 and 11;
- (b) in relation to any ballot of parents on the question whether a school should acquire grant-maintained status as a member of a group; and
- (c) in relation to any proposals in consequence of such a ballot until their implementation.

**Transfer of property – schools which are not grant-maintained**

**20.—(1)** Section 38 of the 1993 Act shall apply where, in relation to any school, proposals for acquisition of grant-maintained status as a member of a group are approved, as if—

- (a) the reference in subsection (1) to the governing body incorporated under Chapter II were to the governing body incorporated under these Regulations; and
- (b) the reference in the fourth line of subsection (4) to the first governors of the school were to the core governors of the group.

(2) The properties rights and liabilities referred to in sections 38(1) of the 1993 Act shall be held or be treated as having been incurred by the new governing body on behalf of the school for whose purposes they were acquired or incurred and accordingly—

- (a) any property and rights shall be held for the benefit of that school; and
- (b) any liabilities shall be met out of capital or income which is held on behalf of or is attributable to that school.

(3) Section 38 of the 1993 Act is subject to the modification that subsection (1) shall not apply in the case of a hospital special school to any land used or held by the local education authority or by the existing governing body for the school.

**Transfer of staff – schools which are not grant-maintained**

**21.** Section 39 of the 1993 Act applies in relation to any school where proposals for acquisition of grant-maintained status as a member of a group are approved as if—

- (a) the reference in subsections (1)(b)(i) to “the school” were to one or more schools named in the proposals;
- (b) references to the grant-maintained school were to the group.

**Transfer of property and staff: grant-maintained schools**

**22.—(1)** This regulation applies where in relation to any school, proposals are approved for—

- (a) two or more grant-maintained schools to form a group; or
- (b) a grant-maintained school to join an existing group; or
- (c) the schools in two or more existing groups to become one group.

(2) The property rights and liabilities of the existing governing body or governing bodies shall on the date of implementation of the proposals be transferred to and by virtue of these Regulations vest in the new governing body incorporated under these Regulations.



(3) The properties rights and liabilities referred to in subsection (2) above shall be held or be treated as having been incurred by the new governing body on behalf of the school for whose purposes they were acquired or incurred and accordingly—

- (a) any property and rights shall be held for the benefit of that school; and
- (b) any liabilities shall be met out of capital or income which is held on behalf of or is attributable to that school.

(4) Without prejudice to paragraphs (2) and (3) above a contract of employment between the governing body of any grant-maintained school or the governing body of any group named in the proposals and any person shall have effect from the date of implementation of the proposals as if made between that person and the new governing body of the group.

(5) This regulation is without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change of employer effected by paragraph (4) above.

### **“Pending procedure”**

**23.—**(1) For the purposes of Chapter III of Part II of the 1993 Act and for the purposes of these Regulations the procedure for acquisition of grant-maintained status as a member of a group is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(2) For these purposes, the procedure is to be regarded as initiated in relation to a school—

- (a) on any occasion on receipt by the local education authority of notice of a meeting of the governing body at which a motion under regulation 3 or 4 for a resolution to hold a ballot of parents on the question whether grant-maintained status should be sought for their school as a member of a group is to be considered; or
- (b) on any occasion on receipt by the local education authority of notice of a meeting of the governing body of a hospital special school at which a motion under regulation 3 or 4 for a resolution to apply for the school to acquire grant-maintained status as a member of a group is to be considered.

(3) For these purposes, that procedure, as initiated on any occasion, is to be regarded as terminated in respect of the school or the participating schools as the case may be—

- (a) when initiated as mentioned in paragraph (2) above if—
  - (i) the meeting is not held;
  - (ii) the meeting is held but the motion is not moved, or, though the motion is moved, the resolution is not passed;
  - (iii) the resolution is passed but one of the governing bodies of the participating schools fails to pass a similar resolution within the period referred to in regulation 3;
  - (iv) the resolution is passed, but the result of the ballot to which regulation 3 or 4 relate does not show a majority in favour of seeking grant-maintained status for the school as a member of a group;
  - (v) where a school is proposing to seek grant-maintained status as a member of an existing group and the governing body of that group have refused their consent to the school joining the group;
  - (vi) the result of the ballot or, in the case of a hospital special school, the resolution, in the case of all the other participating schools does not show a majority in favour of seeking grant-maintained status for any of those other participating schools; or
  - (vii) the result of the ballot or, in the case of a hospital special school, the resolution in the case of one or more other participating schools (but not all of them) shows a

majority in favour of seeking grant-maintained status for the school and the period referred to in regulation 11 has passed without the school acting in accordance with regulation 11(3);

- (b) if proposals are required to be published under regulation 12, or any proposals required in substitution for those proposals, are rejected by the Secretary of State or withdrawn, or
- (c) on the date of implementation of the proposals.

(4) Where regulation 9 applies in the case of such a ballot, the reference in paragraph (3) above to the result of that ballot shall be read as a reference to the result of the second ballot required by that regulation.

(5) The reference in sub-paragraph (3)(b) above to proposals required in substitution for any proposals (“the original proposals”) required to be published by reference to the result of a ballot is to any proposals required to be published by virtue of paragraph (1) or (3) of regulation 16 on withdrawal or (as the case may be) rejection of-

- (a) the original proposals; or
- (b) any further proposals required to be published by virtue of paragraph (1) or (3) of regulation 16 without a further ballot.

(6) Proposals published under regulation 12 shall not be treated for the purpose of sub-paragraph (3)(b) above as rejected in any case where the Secretary of State imposes a requirement under regulation 16(3) or as withdrawn in any case where he imposes a requirement under regulation 16(1) for the publication of further proposals.