

SCHEDULE 3

Articles 3 and 4

TRANSITIONAL PROVISIONS

PART I

TRANSITIONAL PROVISIONS CONSEQUENTIAL ON
THE COMMENCEMENT OF PARTS I AND II OF THE ACT

1.—(1) The requirement, imposed on the governing body of a grant-maintained school under section 96(3) of the Act, to have regard to any guidance given by the Secretary of State in determining the persons whom it is appropriate to consult before publishing proposals, shall not apply in relation to any proposals published under that section before 1st July 1994.

(2) Section 96(6)(a) of the Act shall not apply in relation to any proposals published before 1st April 1994 under section 89 of the Education Reform Act 1988 which have not been determined before that date.

2.—(1) Sub-paragraph (2) below applies where before 1st April 1994—

- (a) proposals have been published by the governing body of a grant-maintained school in England in accordance with section 89 of the Education Reform Act 1988; and
- (b) the Secretary of State has in accordance with section 90 of that Act directed the governing body to submit to him particulars of the premises or proposed premises of the school; but
- (c) he has not approved those particulars in accordance with that section.

(2) Any particulars so submitted in accordance with section 90 of the Education Reform Act 1988 shall be treated on and after 1st April 1994 as having been submitted to the funding authority in accordance with section 99(1) of the Act; and the Secretary of State shall as soon as reasonably practicable after that date send copies of those particulars to the funding authority.

3. The requirement, imposed on the governing body of a grant-maintained school under section 104(2) of the Act, to have regard to any guidance given by the Secretary of State in determining the persons whom it is appropriate to consult before passing a resolution under section 104(1)(a) of the Act, shall not apply in relation to any such resolution passed before 1st July 1994.

4. The amendment to section 11(3)(b) of the Education Reform Act 1988 made by section 147(1) of the Act shall not affect a person's appointment to a standing advisory council on religious education where that appointment was made under section 11(3)(b) of the Education Reform Act 1988 before 1st April 1994.

PART II

TRANSITIONAL PROVISIONS CONSEQUENTIAL
ON THE COMMENCEMENT OF OTHER
PROVISIONS OF THE ACT ON 1ST APRIL 1994

5.—(1) Where—

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- (a) before 1st April 1994 a local education authority apply to the Secretary of State for his approval under section 9(5) of the Education Act 1944(1) for a school, proposed to be maintained by them, to be a special school within the meaning of that section; but
- (b) the application is not determined by the Secretary of State before that date, the application shall be treated on and after that date as if made in accordance with section 183(2)(a) and (6) and 184(1) to (3) of the Act; and sections 184(4) to (6) and 185 of the Act shall have effect accordingly.

(2) Where—

- (a) before 1st April 1994 a local education authority apply to the Secretary of State for his approval for the making of a change in the arrangements which are required to apply to a special school maintained by them in accordance with regulations made under section 12(1)(b) and (2) of the 1981 Act(2); but
- (b) the application is not determined by the Secretary of State before that date, the application shall be treated on and after that date as if made in accordance with sections 183(2)(b) and (6) and 184(1) to (3) of the Act; and sections 184(4) to (6) and 185 of the Act shall have effect accordingly.

6.—(1) The requirement imposed by sections 12(1A) and 13(1B) of the Education Act 1980(3) (as amended respectively by sections 229(1) and 230(1) of the Act), to have regard to any guidance given by the Secretary of State in determining the persons whom it is appropriate to consult before publishing proposals, shall not apply in relation to any proposals published under section 12 or 13 of the Education Act 1980 before 1st July 1994.

(2) The amendments to sections 12(3) and 13(3) of the Education Act 1980 made respectively by sections 229(2) and 230(2) of the Act shall not apply in relation to any proposals published before 1st April 1994 under section 12 or 13 of the Education Act 1980.

7.—(1) Sub-paragraph (2) below shall have effect notwithstanding the amendments made to section 50(1) of the Education (No.2) Act 1986 by section 278(6) of the Act and the repeal in section 50(3)(c) of that Act of the words “local education authorities”.

(2) The Education (Training Grants) Regulations 1993(4), which were made under section 50 of the Education (No.2) Act 1986(5), shall continue to have effect on and after 1st April 1994 in so far as they relate to the payment of grant on and after that date, or grant paid before that date, in respect of expenditure incurred on or before 31st March 1994.

8. Notwithstanding the repeal of section 6(2) of, and Part II of the First Schedule to, the Education Act 1944, in relation to any joint education committee constituted immediately before 1st April 1994—

- (a) that section and that Schedule, other than paragraphs 1 and 7 thereof, shall continue to have effect; and
- (b) the repeal of, or (in the case of paragraphs (ii) and (v) below) the amendments made to—
 - (i) section 101(9)(a) of the Local Government Act 1972(6) by paragraph 49 of Schedule 19 and Part II of Schedule 21 to the Act;
 - (ii) section 104(2)(a) of the Local Government Act 1972 by paragraph 50 of Schedule 19 to the Act;

(1) 1944 c. 31; section 9(5) was substituted by section 11(1) of the Education Act 1981 (c. 60).

(2) See the Education (Approval of Special Schools) Regulations 1983 (S.I. 1983/1499).

(3) 1980 c. 20.

(4) S.I. 1993/72.

(5) 1986 c. 40.

(6) 1972 c. 70.

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- (iii) section 1(1)(j) of the Local Government Act 1988(7) by paragraph 110 of Schedule 19 and Part II of Schedule 21 to the Act;
- (iv) the words from “A joint education committee” to “1944” in paragraph 2 of Schedule 2 to the Local Government Act 1988 by paragraph 111 of Schedule 19 and Part II of Schedule 21 to the Act;
- (v) section 13 of the Local Government and Housing Act 1989(8) by paragraph 156(a), (b) and (d) of that Schedule; and
- (vi) paragraph 4 of Schedule 11 to the Local Government and Housing Act 1989 by Part II of Schedule 21 to the Act, shall not have effect.

9.—(1) Notwithstanding the repeal on 1st April 1994 of paragraph 4 of Schedule 1 to the Education Act 1981, under which regulation 12 of the Education (Special Educational Needs) Regulations 1983(9) was made, that regulation shall, subject to sub-paragraph (2) below, continue in force on and after that date.

(2) Regulation 12 of the Education (Special Educational Needs) Regulations 1983, as so continued in force, shall have effect as if made under section paragraph 7(2) of Schedule 10 to the Act and may be amended or revoked thereunder.

10.—(1) Notwithstanding the repeal on 1st April 1994 of sections 79 and 80 of the Education Reform Act 1988, the old grants code shall continue to have effect on and after that date in relation to—

- (a) any payments of maintenance grant under section 79(1) of that Act in respect of any financial year ending before that date; and
- (b) any payments of capital and special purpose grants under section 79(3) of that Act made before that date.

(2) The functions conferred on the Secretary of State by or under the old grants code (as it has effect by virtue of sub-paragraph (1) above) shall, so far as relating to any amounts which—

- (a) fall or may fall to be paid in any financial year beginning on or after 1st April 1994; or
- (b) have been paid by the Secretary of State before that date, in respect of any grant under that code, be exercisable by the funding authority.

(3) In this paragraph, “the old grants code” means sections 79 and 80 of the Education Reform Act 1988 as they apply in relation to England.

11. Notwithstanding the repeal on 1st April 1994 of section 81 of the Education Reform Act 1988(10), that section shall continue to have effect on and after that date in relation to any sums recoverable by the Secretary of State under section 81(1) of that Act for any financial year ending before that date.

12.—(1) Notwithstanding the repeal on 1st April of sections 79 and 81 of the Education Reform Act 1988 under which the Education (Grant-maintained Schools) (Finance) Regulations 1990(11) (“the 1990 Regulations”) were made, those Regulations shall, subject to sub-paragraphs (2) to (5) below, continue in force on and after that date.

(2) The 1990 Regulations, as so continued in force, shall have effect as if made under sections 81(2), 82(2), 83(2), 88, 89, 90 and 94 of the Act and may be amended or revoked.

(7) 1988 c. 9.

(8) 1989 c. 42.

(9) 1983/29; regulation 12 was amended by S.I. 1988/1067.

(10) Section 81 was amended by paragraph 98 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42) and paragraph 58 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

(11) S.I. 1990/549, amended by S.I. 1990/2279, 1991/353.

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(3) The 1990 Regulations, as so continued in force, shall not apply in relation to any school which is established as a grant-maintained school under Chapter IV of Part II of the Act.

(4) In the 1990 Regulations, as so continued in force, any reference to the incorporation date in respect of any school, shall be read as a reference to the date of implementation of the proposals in respect of the school (within the meaning of section 37(2) of the Act).

(5) In the 1990 Regulations, as so continued in force, any reference to the former maintaining authority shall be read as a reference to the local education authority named in a determination under section 93 of the Act applying that section in relation to the school (or that school and other schools) and financial year in question.