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STATUTORY INSTRUMENTS

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**1998 No. 1966**

**EDUCATION, ENGLAND AND WALES**

**The Education (Assisted Places)  
(Amendment) (No. 2) Regulations 1998**

*Made* - - - - - *7th August 1998*  
*Laid before Parliament* *11th August 1998*  
*Coming into force* - - - *2nd September 1998*

In exercise of the powers conferred on the Secretary of State by sections 3(1), (2), (5) and (9) of the Education (Schools) Act 1997(1) and after consulting, in accordance with section 3(7) of that Act, such bodies as appear to them to be appropriate and representative of schools which provide assisted places under section 2(1) of that Act, the Secretary of State for Education and Employment as respects England, and the Secretary of State for Wales as respects Wales, hereby make the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Education (Assisted Places) (Amendment) (No. 2) Regulations 1998, and shall come into force on 2nd September 1998.

**Amendments to the Education (Assisted Places) Regulations 1997**

2. The Education (Assisted Places) Regulations 1997(2) shall be amended in accordance with regulations 3 to 8 below.

3. In regulation 4 (as amended by the Education (Assisted Places) (Amendment) Regulations 1998(3), for “19(7)” there shall be substituted “19B(5)”.

4. In regulation 6(1) (as amended by the Education (Assisted Places) (Amendment) Regulations 1998), for “19(7)” there shall be substituted “19B(5)”.

5. For the cross-heading “**Transfer of assisted places**” preceding regulation 19, there shall be substituted—

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(1) 1997 c. 59. Section 3(2) of the 1997 Act was amended by section 130(1) of the School Standards and Framework Act 1998 (c. 31). And section 2 of the 1997 Act was amended by paragraph 224 of Schedule 30 to the 1998 Act.  
(2) S.I.1997/1968, as amended with effect from 1st September 1998 by S.I. 1998/1726.  
(3) S.I. 1998/1726.

***“Merger, closure etc. of former participating school”.***

6.—(1) Regulation 19 shall be amended as follows.

(2) Paragraph (3) shall be omitted.

(3) For paragraph (5) there shall be substituted—

“(5) In this Regulation, “new school” means any school formed by the merger of a former participating school and another school referred to in paragraph (1)(a).”.

(4) Paragraphs (6) to (8) shall be omitted.

7. After regulation 19, there shall be inserted the following new regulation—

**“Transfer of assisted places**

**19A.** In any case where the Secretary of State is satisfied that it is reasonable to do so in view of any particular circumstances relating to a pupil who holds (or has at any time held) an assisted place provided by a school under section 2(1) of the 1997 Act, he may authorise—

(a) another former participating school, or

(b) a new school authorised to provide any assisted places by virtue of regulation 19,

to provide for the pupil under section 2(1) of the 1997 Act the assisted place which the first-mentioned school was authorised to provide.”.

8. After the new regulation 19A so inserted, there shall be inserted the following new regulation—

**“Authorisation of replacement school**

**19B.—**(1) This regulation applies where the Secretary of State decides to authorise a school pursuant to regulation 19 or 19A.

(2) Where this regulation applies, the Secretary of State shall give written notice of his decision to the replacement school; and that notice shall specify in respect of every transferred assisted pupil—

(a) his name, address and date of birth;

(b) the period for which he may be provided with an assisted place by the replacement school (which shall correspond to the remainder of the period for which his assisted place at the old school would have been available); and

(c) the maximum annual amount of fees which may be charged for him by the replacement school.

(3) A transferred assisted pupil shall cease to hold an assisted place at the replacement school at the end of the period specified in the notice.

(4) Before giving a notice in the case of any pupil, the Secretary of State shall consult the replacement school as to the level of fees he proposes to specify in the notice in relation to that pupil.

(5) Subject to regulation 6, the fees charged by a replacement school for a transferred assisted pupil shall not exceed the maximum annual amount specified in the notice.

(6) In this Regulation—

“notice” (except in paragraph (2)) means a notice given by the Secretary of State to a replacement school under paragraph (2);

“old school”, in relation to a transferred assisted pupil, means the school at which he was last provided with an assisted place before the Secretary of State made the decision referred to in paragraph (1);

“replacement school”, in relation to a transferred assisted pupil, means the school authorised to provide an assisted place for that pupil under regulation 19 or (as the case may be) 19A;

“transferred assisted pupil”, in relation to a replacement school, means a child who held an assisted place at an old school and for whom the replacement school is authorised to provide an assisted place under regulation 19 or (as the case may be) 19A.”.

### **Amendment to the Education (Assisted Places) (Amendment) Regulations 1998**

**9.** Regulation 9 of the Education (Assisted Places) (Amendment) Regulations 1998 is hereby revoked.

5th August 1998

*Tessa Blackstone*  
Minister of State,  
Department for Education and Employment

7th August 1998

*Peter Hain*  
Parliamentary Under Secretary of State, Welsh  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations (which further amend the Education (Assisted Places) Regulations 1997) are made in exercise of the power conferred on the Secretary of State by section 3(2)(g) of the Education (Schools) Act 1997 which was added by section 130(1) of the School Standards and Framework Act 1998.

The Regulations provide for the Secretary of State to authorise the transfer of an assisted place provided under section 2(1) of the 1997 Act from one former participating school to another (or to a new school authorised under regulation 19 of the 1997 Regulations) in any case where the Secretary of State is satisfied that it is reasonable to permit such a transfer in view of any particular circumstances relating to the child concerned (*regulation 7*). Previously the Secretary of State could authorise the transfer of an assisted place only where a former participating school closes, merges with another school or ceases to provide assisted places.

Provision is also made for the Secretary of State to notify the replacement school of the terms upon which the transfer is to take place (*regulation 8*).

Consequential amendments are made to certain provisions of the 1997 Regulations (*regulations 3 to 6*), and to the Education (Assisted Places) (Amendment) Regulations 1998 (*regulation 9*).