

**1999 No. 2213**

**EDUCATION, ENGLAND**

**The Education (School  
Organisation Proposals)  
(England) Regulations 1999**

*Made - - - -*

*29th July 1999*

*Laid before Parliament*

*6th August 1999*

*Coming into force*

*1st September 1999*



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**ARRANGEMENT OF REGULATIONS**

1. Citation, commencement and application.
  2. Interpretation.
  3. Alterations for which proposals must be published.
  4. Information to be contained in published proposals.
  5. Manner of publication of proposals.
  6. Information to be sent to School Organisation Committee or Secretary of State.
  7. Objections to proposals.
  8. Approval of proposals with modifications after consultation.
  9. Conditional approvals.
  10. Period after the expiry of which proposals must be referred to the adjudicator if requested.
  11. Modification of approved proposals.
  12. Provision of information.
  13. Voting of committee on proposals under section 28, section 29 and Schedules 6, 7 and 23.
  14. Time within which reference must be made to the adjudicator.
  15. Application of and modification to provisions of the Act in special cases.
  16. Review of standard number decisions.
  17. Construction of certain references to School Organisation Committee, Adjudicator etc.
  18. Amendment of Transition Regulations.
  19. Revocation.
- Schedule 1 Alterations for which proposals must be published.
- Schedule 2 Information to be contained in published proposals.
- Part I Information to be contained in all published proposals to establish, alter or discontinue a school.

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|------------|---|
| Part II    | Additional information to be contained in published proposals to establish a new school.                    |
| Part III   | Additional information to be contained in published proposals to make a prescribed alteration to a school.  |
| Part IV    | Additional information to be contained in published proposals to discontinue a school.                      |
| Part V     | Information to be contained in published proposals to vary a standard number.                               |
| Schedule 3 | Information to be sent to the School Organisation Committee or the Secretary of State.                      |
| Part I     | Interpretation.   |
| Part II    | Information to be sent in all cases where proposals are published under section 28 or 29.                   |
| Part III   | Additional information to be sent where proposals are to establish a new school.                            |
| Part IV    | Additional information to be sent where the proposals are to make a prescribed alteration to a school.      |
| Part V     | Additional information to be sent where the proposals are to discontinue a school.                          |
| Part VI    | Information to be sent where proposals are published under paragraph 5 of Schedule 23.                      |
| Schedule 4 | Provisions of section 28 and Schedule 6 applying to proposals published under paragraph 5(4) of Schedule 6. |
| Schedule 5 | Other modifications to section 28, section 29 and Schedules 6 and 23 in special cases.                      |
| Part I     | Modifications to sections 28 and 29 and Schedule 6.   |
| Part II    | Modifications to Schedule 23.   |

In exercise of the powers conferred on the Secretary of State by sections 28(1), (2), (3), (6), (9) and (12), 29(3), (5) and (8), 33(4), 138(7) and (8) and 144(1) of, and paragraph 5 of Schedule 4, paragraph 5 of Schedule 5, paragraphs 2, 3, 4 and 5 of Schedule 6, paragraphs 2, 3, 5, 7, 8 and 9 of Schedule 7 and paragraphs 5 and 6 of Schedule 23 to, the School Standards and Framework Act 1998<sup>(a)</sup> and of all other powers enabling him in that behalf, the Secretary of State for Education and Employment hereby makes the following Regulations:

#### **Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Education (School Organisation Proposals) (England) Regulations 1999 and shall come into force on 1st September 1999.

(2) These Regulations apply in relation to local education authorities and schools maintained by (or, in the case of new schools, proposed to be maintained by) local education authorities in England.

#### **Interpretation**

**2.**—(1) In these Regulations—

“the Act” means the School Standards and Framework Act 1998;

“the Transition Regulations” means to Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999<sup>(b)</sup>;

“mainstream school” means a community, foundation or voluntary school;

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<sup>(a)</sup> 1998 c. 31.

<sup>(b)</sup> S.I. 1999/704.

and any reference to section 28, section 29, Schedule 6, Schedule 7 or Schedule 23 is a reference to that section of, or Schedule to, the Act.

(2) For the purposes of these Regulations except Part VI of Schedule 3, the capacity of a school shall be determined in accordance with the Schedule to the Education (Information as to Provision of Education) (England) Regulations 1999<sup>(a)</sup>.

(3) For the purposes of paragraph 4(2) of Schedule 6, in relation to mainstream schools, and these Regulations the date of publication of proposals is—

- (a) the date on which the requirements of regulation 5 are satisfied; and
- (b) where different requirements are satisfied on different days, on the last of such days.

### **Alterations for which proposals must be published**

3. The alterations specified in Schedule 1 to these Regulations are prescribed as alterations for which proposals must be published under section 28(1)(b) or (c) or 28(2)(b).

### **Information to be contained in published proposals**

4.—(1) This regulation prescribes for the purposes of section 28(3)(a), section 29(3)(a), paragraph 5(2)(a) of Schedule 7 (where the proposals relate to a mainstream school) and paragraph 5(1)(a) of Schedule 23, the information which proposals published under section 28 or 29, paragraph 5 of Schedule 7 or paragraph 5 of Schedule 23 must contain.

(2) Proposals published under section 28 or 29, or paragraph 5(2) of Schedule 7 must contain the information specified in Part I of Schedule 2 to these Regulations together with—

- (a) the information specified in Part II of that Schedule where the proposals are to establish a new school; or
- (b) the information specified in Part III of that Schedule where the proposals are to make a prescribed alteration to a school; or
- (c) the information specified in Part IV of that Schedule where the proposals are to discontinue a school.

(3) Proposals published under paragraph 5 of Schedule 23 must contain the information specified in Part V of Schedule 2 to these Regulations.

### **Manner of publication of proposals**

5.—(1) This regulation prescribes for the purposes of section 28(3)(b) and section 29(3)(b), for the purposes of paragraph 5(4) of Schedule 6 and paragraph 5(2)(b) of Schedule 7 (in both cases where the proposals relate to a mainstream school) and for the purposes of paragraph 5(1)(a) of Schedule 23, the manner of publication of proposals required to be published under sections 28 or 29, paragraph 5(4) of Schedule 6, paragraph 5 of Schedule 7 or paragraph 5 of Schedule 23.

(2) Any proposals for the establishment of a school shall be published—

- (a) by being posted in a conspicuous place in the area to be served by the school; and
- (b) in at least one newspaper circulating in that area.

(3) Any proposals—

- (a) for the making of a prescribed alteration to a school which would not alter the area to be served by the school;
- (b) for the discontinuance of the school;
- (c) to apply to the school organisation committee to vary any standard number which applies to the school;

shall be published—

- (d) by being posted in a conspicuous place in the area served by the school;
- (e) in at least one newspaper circulating in that area; and
- (f) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

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(a) S.I. 1999/1066.

(4) Any proposals for the making of a prescribed alteration to a school which would alter the area proposed to be served by the school, shall be published—

- (a) by being posted in a conspicuous place in the area served by the school and the area proposed to be served by the school;
- (b) in at least one newspaper circulating in the areas referred to in sub-paragraph (a) above; and
- (c) by being posted at or near the main entrance to the school, or, if there is more than one entrance, all of them.

(5) Any proposals that paragraph 5(1) of Schedule 6 (requirement to implement proposals) should cease to apply in relation to proposals published under section 28 or 29, shall be published—

- (a) by being posted in a conspicuous place in the area or areas in which notice of the original proposals was required to be posted;
- (b) in at least one newspaper circulating in the area referred to in sub-paragraph (a) above; and
- (c) where the proposals relate to an existing school, by being posted at or near the main entrance to the school, or, if there is more than one entrance, all of them.

### **Information to be sent to School Organisation Committee or Secretary of State**

6.—(1) This regulation prescribes—

- (a) for the purposes of section 28(6)(b), section 29(5)(b) and paragraph 5(1)(b) of Schedule 23 the information in connection with proposals published under section 28, section 29 or paragraph 5(1) of Schedule 23 which must be sent to the school organisation committee; and
- (b) for the purposes of paragraphs 2(5) and 3(5) of Schedule 7 the information in connection with proposals published under section 28 or section 29 pursuant to an order under paragraph 2 or 3 of Schedule 7 which must be sent to the Secretary of State.

(2) Where proposals have been published under section 28 or 29 the relevant body or promoters shall send to the school organisation committee and (where the proposals were published pursuant to an order under paragraph 2 or 3 of Schedule 7) to the Secretary of State the information specified in Part II of Schedule 3 to these Regulations together with—

- (a) such of the information specified in Part III of that Schedule as applies to the proposals, where the proposals are to establish a new school;
- (b) such of the information specified in Part IV of that Schedule as applies to the proposals, where the proposals are to make a prescribed alteration to a school; and
- (c) such of the information specified in Part V of that Schedule as applies to the proposals, where the proposals are to discontinue a school.

(3) Where proposals have been published under paragraph 5(1) of Schedule 23 the local education authority or governing body shall send to the school organisation committee the information specified in Part VI of Schedule 3.

### **Objections to proposals**

7.—(1) This regulation—

- (a) prescribes for the purposes of paragraph 2(2)(a) and (3) of Schedule 6 and paragraph 7(2) of Schedule 7 the period within which objections to proposal mentioned in those paragraphs relating to mainstream schools may be sent and for the purpose of paragraph 5(5) of Schedule 23 the period during which objections to proposals mentioned in that paragraph may be sent; and
- (b) prescribes for the purposes of paragraph 2(2)(b) of Schedule 6 the period within which a local education authority must send copies of objections to proposals relating to mainstream schools.

(2) Objections to proposals published under section 28 or 29, paragraph 5 of Schedule 7 or paragraph 5 of Schedule 23 shall be sent to the local education authority or the relevant committee (as the case may be)—

- (a) within two months after the date of publication of the proposals, except where sub-paragraph (b) applies; or
- (b) within one month after the date of publication of the proposals, where—
  - (i) the proposals are published under section 28 to make a prescribed alteration to, or published under section 29 to discontinue, a school to which section 15 of the Act applies, or
  - (ii) the proposals are published under section 28 to establish a new school on the same site as a school to which section 15 applies and which it is proposed to discontinue.

(3) The local education authority shall send copies of objections to proposals published under section 28 or 29 together with the authority's observations on them to the relevant school organisation committee in accordance with paragraph 2(2)(b) of Schedule 6 within—

- (a) one month after the end of the objection period except where the proposals fall within paragraph (2)(b); and
- (b) two weeks after the end of the objection period where the proposals fall within paragraph (2)(b).

#### **Approval of proposals with modifications after consultation**

**8.**—(1) This Regulation prescribes, for the purpose of paragraph 3(2)(c) of Schedule 6 or, as the case may be, that sub-paragraph as applied by paragraph 3(7) of that Schedule the persons or bodies with whom the school organisation committee or, as the case may be, an adjudicator, must consult before approving proposals relating to mainstream schools with modifications.

- (2) The persons or bodies prescribed are the persons or body who published the proposals; and
  - (a) where the proposals are to establish a new foundation or voluntary school, the local education authority who it is proposed should maintain the school;
  - (b) where the proposals were published by the governing body of a school, the local education authority who maintain the school; and
  - (c) where the proposals were published by the local education authority to make a prescribed alteration to a foundation school consisting of an enlargement of the premises of the school, or to discontinue a voluntary or foundation school, the governing body of the school.

#### **Conditional approvals**

**9.** The following events are prescribed for the purposes of paragraph 3(3) of Schedule 6 and paragraphs 8(3) and 9(4) of Schedule 7 (which provide that approvals given under those paragraphs may be expressed to take effect only if an event specified in the approval occurs by a date so specified) in relation to approval of proposals relating to mainstream school—

- (a) the grant of planning permission under Part III of the Town and Country Planning Act 1990**(a)**;
- (b) the acquisition of a site on which a new school, a proposed enlargement of the premises of a school or other alteration to the premises of the school is to be constructed;
- (c) the acquisition of playing fields to be provided for the school;
- (d) the securing of any necessary access to a site referred to in sub-paragraph (b) or playing fields referred to in sub-paragraph (c);
- (e) the entering into of a private finance transaction within the meaning of regulation 16 of the Local Authorities (Capital Finance) Regulations 1997**(b)**;
- (f) the making of any scheme relating to any charity connected with the school or proposed school; and

#### **Period after the expiry of which proposals must be referred to the adjudicator if requested**

**10.**—(1) This regulation prescribes periods for the purposes of paragraphs 3(5) and 5(5) of Schedule 6, paragraph 8(5) of Schedule 7 (where the proposals relate to a mainstream school) and

(a) 1990 c. 8.

(b) S.I. 1997/319; amended by S.I. 1998/371.

paragraph 6(7) of Schedule 23 (which provide that if, by the end of such period as may be specified in or determined in accordance with regulations, a school organisation committee has not voted on certain questions and if the bodies referred to in those paragraphs so request, the committee shall refer the proposals or matter to the adjudicator).

(2) For the purposes of paragraph 3(5) of Schedule 6 the period, subject to paragraph (6), is the period ending—

- (a) where proposals were published by a local education authority, two months from the date on which the committee receive from the local education authority under paragraph 2(2)(b) of Schedule 6 and regulation 7(3), copies of all objections made together with the authority's observations on them; and
- (b) where proposals were published by a governing body or promoters, two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 2(3) of Schedule 6 and regulation 7(2),

or, if later, two months from the date on which the committee receive the information referred to in regulation 6.

(3) For the purposes of paragraph 5(5) of Schedule 6 the period, subject to paragraph (6), is the period ending—

- (a) where the matter is a request for modification of proposals, one month from the date which the committee notify persons whom they consult (pursuant to paragraph 5(2) of Schedule 6 and regulation 11(3)) is to be the date by which responses to the consultation must be received;
- (b) where the matter is a request to specify a later date, one month from the date of the request; and
- (c) where the matter is a proposal for the committee to make a determination under paragraph 5(3) of Schedule 6 to the Act,
  - (i) where the proposals were published by a local education authority, two months from the date on which the committee receive from the local education authority under paragraph 2(2)(b) of Schedule 6, as it has effect with the modifications specified in Schedule 4 to these Regulations, copies the objections made together with the authority's observations on them, and
  - (ii) where the proposals were published by a governing body or promoters, two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 2(3) of Schedule 6, as it has effect with the modifications specified in Schedule 4 to these Regulations,

or, if later, two months from the date on which the committee receive the information specified in section 28(6) as it has effect with the modifications specified in Schedule 4 to these Regulations.

(4) For the purposes of paragraph 8(5) of Schedule 7 the period, subject to paragraph (6), is two months from the date on which objections must be sent to the committee under paragraph 7 of Schedule 7 and regulation 7(2).

(5) For the purposes of paragraph 6(7) of Schedule 23 the period, subject to paragraph (6) is two months from the date on which objections must be sent to the committee under paragraph 5(5) of Schedule 23 and regulation 7(2).

(6) Where in the opinion of the committee one proposal or matter ("proposal A") is related to another proposal or matter ("proposal B") and the period relating to proposal A determined in accordance with paragraph (2), (3), (4) or (5) would end earlier than the period relating to proposal B, then, despite paragraph (2), (3), (4) or (5) the period relating to proposal A shall expire at the same time as the period relating to proposal B.

### **Modification of approved proposals**

**11.—**(1) This regulation prescribes, for the purposes of paragraph 5(2) of Schedule 6 or, as the case may be, that sub-paragraph as applied by paragraph 5(7) of that Schedule the persons or body—

- (a) at whose request the school organisation committee or, as the case may be, the adjudicator may—
    - (i) modify approved proposals relating to a mainstream school, or
    - (ii) where approval of proposals in respect of a mainstream school was given in accordance with paragraph 3(3) of that Schedule (approval expressed to take effect only if an event specified in the approval occurs by a date so specified), specify a later date by which the event in question must occur; and
  - (b) whom a school organisation committee or, as the case may be, an adjudicator must consult before modifying approved proposals relating to a mainstream school.
- (2) A school organisation committee or an adjudicator may modify approved proposals or specify a later date at the request of the persons or body who published the proposals.
- (3) Before modifying approved proposals a school organisation committee or an adjudicator shall consult the persons or body who published the proposals and—
- (a) where the proposals are to establish a new foundation or voluntary school, the local education authority who it is proposed should maintain the school;
  - (b) where the proposals were published by the governing body of a school, the local education authority who maintain the school; and
  - (c) where the proposals were published by the local education authority to make a prescribed attention to a foundation school consisting of an enlargement of the premises of the school or to discontinue a voluntary or foundation school, the governing body of the school.
- (4) In this regulation references to approved proposals include references to proposals which the local education authority have determined to implement under paragraph 4 of Schedule 6.

**Provision of information**

- 12.**—(1) The school organisation committee shall, within two weeks of the date on which such proposals were sent to them, send to the Secretary of State a copy of all published proposals which are sent to them under section 28(6) (including proposals sent to them under section 28(6) as it has effect by virtue of Schedule 4 to these Regulations) or section 29(5) relating to mainstream schools.
- (2) The school organisation committee shall notify the following persons of each decision taken under paragraph 3(2) or 5(2) or (3) of Schedule 6 or paragraph 8(2)(a) or (b) of Schedule 7 relating to a mainstream school—
- (a) the persons or body who published the proposals;
  - (b) (if different) the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school;
  - (c) (if different) the governing body of the school to which the proposals relate;
  - (d) subject to paragraph (8), each objector;
  - (e) the Secretary of State; and
  - (f) where the decision is to approve proposals for the revision of admission arrangements of a grammar school such as is mentioned in section 109(1) of the Act, the designated body within the meaning of section 105(3)(c) of the Act.
- (3) The school organisation committee shall notify the persons referred to in sub-paragraphs (a) to (c) and (e) of paragraph (2) if they refer any proposals or matter relating to a mainstream school to the adjudicator under paragraph 3(5) or (6), or 5(5) or (6) of Schedule 6 or paragraph 8(5) or (6) of Schedule 7.
- (4) The adjudicator shall notify the persons referred to in paragraph (2) of each decision taken under paragraph 3(2) or 5(2) or (3) of Schedule 6 relating to a mainstream school.

(5) The school organisation committee and the adjudicator shall notify the persons referred to in subparagraph (a) to (d) of paragraph (2) of each decision taken under paragraph 6 of Schedule 23 or regulation 16.

(6) The school organisation committee shall notify the persons referred to in sub-paragraphs (a) to (c) of paragraph (2) if they refer any matter to the adjudicator under paragraph 6 of Schedule 23 or regulation 16.

(7) Where, pursuant to paragraph (2) or (5) the school organisation committee notify the persons referred to in subparagraphs (a) to (e) of paragraph (2) of a decision they shall also give reasons for that decision.

(8) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the school organisation committee or the adjudicator may comply with paragraph (2), (4) or (5) as the case may be by—

- (a) notifying the person (if any) who appears to them to have arranged for the petition to be sent to the local education authority or school organisation committee; or
- (b) if there is no such person, notifying the objector whose name appears first on the petition.

(9) Where proposals have been published under section 28 which by virtue of section 109(3)(b) of the Act and regulations made under that provision are of no effect, the school organisation committee shall notify the governing body which published the proposals and the local education authority.

(10) Where proposals (“proposals A”) have been sent to the school organisation committee under section 28(6) or 29(5) or paragraph 5(3) of Schedule 7, and subsequently further proposals are sent to the committee under any of those provisions or under section 31(5) of the Act, which in the opinion of the committee are related to proposals A, the school organisation committee shall notify the persons or body who published proposals A of that fact and of the effect of regulation 10(6).

(11) Paragraphs (4) and (5) shall not apply in relation to any decision provision for the notification of which is made by regulation 15 of the Education (Adjudicator’s Inquiry Procedure etc.) Regulations 1999(a).

### **Voting of committee on proposals under section 28, section 29 and Schedules 6, 7 and 23**

**13.—**(1) In this Regulation references to a group of members of a school organisation committee shall be construed in accordance with the Education (School Organisation Committees) (England) Regulations 1999(b).

(2) Each group of members shall collectively have a single vote in relation to any decision of the committee as to whether or not—

- (a) in relation to proposals relating to a mainstream school, to give any approval under paragraph 3 of Schedule 6 or to—
  - (i) modify any proposals,
  - (ii) specify any later date, or
  - (iii) make any determinationunder paragraph 5(2)(a) or (b) or (3) of that Schedule,
- (b) to make any recommendation such as is mentioned in paragraph 3(2) of Schedule 6 where that sub-paragraph applies with the modifications specified in paragraph 3 of Schedule 5 to these Regulations;
- (c) to make, vary or revoke a transitional exemption order under paragraph 21 of Schedule 6 or paragraph 16 of Schedule 7 in relation to proposals relating to a mainstream school;
- (d) to give any approval under paragraph 8 of Schedule 7 in relation to proposals relating to a mainstream school;
- (e) to make any decision authorised by or by virtue of paragraph 6 of Schedule 23;
- (f) to make any recommendation as is mentioned in paragraph 6(1) of Schedule 23 where that sub-paragraph applies with the modifications specified in paragraph 5 of Schedule 5 to these Regulations; or

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(a) S.I. 1999/1286.

(b) S.I. 1999/700.

(g) to defer consideration of whether to make any decision or recommendation on any of the matters referred to in sub-paragraphs (a) to (f) above.

(3) All decisions on questions referred to in paragraph (2) shall be unanimous decisions of those voting.

#### **Time within which reference must be made to the adjudicator**

**14.**—(1) Where by virtue of paragraph 3(5) or 5(5) of Schedule 6, paragraph 8(5) of Schedule 7, paragraph 6(7) of Schedule 23 or regulation 16 the committee are required to refer any proposals or matter relating to mainstream schools to the adjudicator they shall do so within two weeks of the receipt of the request under any of those paragraphs.

(2) Where by virtue of paragraph 3(6), 5(6) or 21(4)(a) of Schedule 6, paragraph 8(6) of Schedule 7, paragraph 6(8) of Schedule 23 or regulation 16, the committee are required to refer any proposals or matter relating to mainstream schools to the adjudicator they shall do so within two weeks of the date on which the committee voted but failed to reach a unanimous decision or (in the case of proposals required to be referred to the adjudicator under paragraph 8(6)(b) of Schedule 7) within two weeks of the date on which the committee decided not to give any approval under paragraph 8 of that Schedule.

#### **Application of and modification to provisions of the Act in special cases**

**15.**—(1) Schedule 4 to these Regulations has effect for the purpose of applying, with modifications where specified, provisions of section 28 and Part I of Schedule 6 in relation to proposals published under paragraph 5(4) of Schedule 6 relating to mainstream schools.

(2) Subject to paragraph (3), Part I of Schedule 5 to these Regulations has effect for specifying the modifications to which section 28(6), section 29(5) and Schedule 6 are to be subject where proposals are published under section 28 or 29 for the transfer of a school to a site in a different area or which relate to a school which is or, is proposed to be, situated in an area other than that of the local education authority who maintain or who it is proposed should maintain the school.

(3) The modifications to section 28(6), section 29(5) and Schedule 6 contained in Part I of Schedule 5 to these Regulations shall not however apply in relation to any proposals published under sections 28 or 29 in relation to which Chapter II of Part II of the Act has effect with the modifications specified in the Schedule to the Transition Regulations.

(4) Subject to paragraph (5), Part II of Schedule 5 to these Regulations has effect for specifying the modifications to which paragraphs 5 and 6 of Schedule 23 are to be subject where proposals are published under paragraph 5 of Schedule 23 which relate to a school which is situated in an area other than that of the local education authority who maintain the school.

(5) The modifications to paragraphs 5 and 6 of Schedule 23 contained in Part II of Schedule 5 to these Regulations shall not however apply in relation to any proposals published under paragraph 5 of Schedule 23 in relation to which that Schedule has effect with the modifications specified in regulation 9 of the School Standards and Framework Act 1998 (Admissions and Standard Numbers) (Modification) Regulations 1999(a).

#### **Review of standard number decisions**

**16.**—(1) This regulation makes provision, for the purposes of paragraph 6(10) of Schedule 23 for enabling the school organisation committee or the adjudicator—

- (a) to review any relevant decision, that is to say a decision of theirs under paragraph 6(1) of that Schedule varying or, as the case may be, refusing to vary any standard number; and
- (b) if appropriate, to revoke or vary that decision.

(2) The school organisation committee or (if the decision was made by him) the adjudicator may review a relevant decision where they are satisfied, upon the application of the local education authority or the governing body, that—

- (a) the decision was wrongly made by virtue of a material error of fact contained in the information provided to the school organisation committee in accordance with regulation 6(2); or
- (b) there was an obvious error in the decision.

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(a) S.I. 1999/1064.

(3) No such application for the review of a relevant decision shall be made later than one month after the date on which the person mentioned in paragraph 4(3) of Schedule 23 was given written notice of that decision by the school organisation committee or, as the case may be, the adjudicator.

(4) Every such application shall be by notice in writing setting out the grounds on which it is made; and the body making the application shall forthwith serve a copy of it on the governing body or (in a case where it was made by that body) the local education authority who, in either case, shall then be entitled, not later than 14 days after the date of service, to make written representations to the school organisation committee or (as the case may be) the adjudicator in relation to the application.

(5) If, having considered the application and any representations made as mentioned in paragraph (4), the school organisation committee or (as the case may be) the adjudicator determine—

(a) that they are not satisfied as mentioned in paragraph (2) and that therefore the relevant decision does not fall to be reviewed; or

(b) (where they are so satisfied) that the relevant decision should be revoked or varied, they shall forthwith give written notice of that determination to the governing body and the local education authority.

(6) If—

(a) by not later than two months following the receipt of an application made in accordance with this regulation for the review of a relevant decision of theirs, the school organisation committee have not voted on the question of whether—

(i) they are satisfied as mentioned in paragraph (2), or

(ii) (where they are so satisfied) the decision should be revoked or varied; and

(b) the body by whom the application was made request the committee to refer the application to the adjudicator,

they shall refer the application to the adjudicator.

(7) The committee shall also refer the application to the adjudicator if they have voted on that question but failed to reach a unanimous decision.

(8) Where any application is referred to the adjudicator under paragraphs (6) or (7)—

(a) he shall consider the application afresh; and

(b) paragraph (5) shall apply to him in connection with his decision on the application as it applies to the committee.

#### **Construction of certain references to School Organisation Committee, Adjudicator etc.**

17.—(1) Where regulation 19(4) of the Transition Regulations applies, the reference in regulation 11 to the school organisation committee or, as the case may be, the adjudicator shall be have affect as a reference to the Secretary of State.

(2) Where Chapter II of Part II of the Act has effect in relation to any proposals with the modifications specified in the Schedule to the Transition Regulations, then in relation to those proposals—

(a) references in regulation 6 and regulation 7 to the school organisation committee shall have effect as references to the Secretary of State;

(b) regulation 6(1)(b), the words “and (where the proposals were published pursuant to an order under paragraph 2 or 3 of Schedule 7) to the Secretary of State” in regulation 6(2) and regulations 10 and 14 shall not have effect;

(c) references in regulations 8 and 11 to the school organisation committee or, as the case may be, the adjudicator shall have effect as references to the Secretary of State; and

(d) the reference, in paragraph 3 of Schedule 2 to these Regulations, to paragraph 2 of Schedule 6 or, as the case may be, paragraph 7 of Schedule 7 shall have effect as a reference to those paragraphs with the modifications so specified and accordingly the reference in paragraph 3(b) of Schedule 2 to the school organisation committee shall have effect as a reference to the Secretary of State.

(3) Where paragraph 5(5) of Schedule 23 has effect subject to the modifications specified in paragraph 4 of Schedule 5 to these Regulations the reference, in paragraph 26 of Schedule 2 to these regulations, to paragraph 5(5) of Schedule 23 shall have effect as a reference to that paragraph subject to the modifications so specified.

(4) Where in relation to any school paragraph 6(10) of Schedule 23 has effect with the modifications specified in regulation 9 of the School Standards and Framework Act 1998 (Admissions and Standard Numbers) (Modifications) Regulations 1999~~(a)~~—

- (a) references in regulation 16(1) to (5) to the school organisation committee or, as the case may be, the adjudicator shall be treated as references to the Secretary of State; and
- (b) regulation 16(6) to (8) shall not have effect.

#### **Amendment of Transition Regulations**

**18.**—(1) The Transition Regulations in relation to England are hereby amended as follows.

(2) In regulation 12(b)(i) and (ii) for “section 42(1)(b)” there shall be substituted “section 41(1)(b)” in both places where they occur.

#### **Revocation**

**19.** The Education (Publication of Proposals for Reduction in Standard Numbers) Regulations 1991~~(b)~~ and the Education (Publication of School Proposals and Notices) Regulations 1993~~(c)~~ (insofar as they continue to have effect, despite the repeal of the provisions containing the powers under which they were made, by virtue of the re-enactment of those powers with modifications) are hereby revoked in relation to England.

29th July 1999

*Estelle Morris*  
Minister of State,  
Department for Education and Employment

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(a) S.I. 1999/1064.  
(b) S.I. 1991/411.  
(c) S.I. 1993/3113.

## ALTERATIONS FOR WHICH PROPOSALS MUST BE PUBLISHED

**1.**—(1) An enlargement other than a temporary enlargement of the premises of the school which,

- (a) would increase the capacity of the school by more than 30 pupils; and
- (b) when taken together with all previous enlargements (if any) taking place since the appropriate date would increase the capacity of the school by the relevant amount as compared with—
  - (i) its capacity on the appropriate date, or
  - (ii) if at any time after that date its capacity was lower than its capacity on that date, its lowest capacity at any such time,

whichever gives rise to the greater increase in capacity.

(2) The making permanent of a temporary enlargement of the school.

In this paragraph—

“temporary enlargement” of the premises of a school is an enlargement of the premises in circumstances where it is anticipated that within three years of the enlargement the capacity of the school will revert to what it was before the enlargement was made;

“the appropriate date” means whichever is the latest of the following dates—

- (a) the date falling five years before the date on which the local education authority or, as the case may be, the governing body form the intention to make the enlargement concerned;
- (b) the date when the school was established;
- (c) where any proposals for the making of a significant enlargement of the premises of the school or for a prescribed alteration to the school consisting of an enlargement of the premises of the school have been approved under—

- (i) section 12 or 13 of the Education Act 1980**(a)**,
- (ii) section 98 of the Education Act 1993**(b)**,
- (iii) section 37 , 43 or 261 of the Education Act 1996**(c)**, or
- (iv) paragraph 3 of Schedule 6, or paragraph 8 or 9 of Schedule 7,

the date (or latest date) on which any such proposals were implemented; and

- (d) where the local education authority have determined to implement any proposals for the making of a significant enlargement of the premises of the school or for prescribed alteration to the school consisting of an enlargement of the premises of the school under section 12(7) of the Education Act 1980, section 38 of the Education Act 1996 or paragraph 4 of Schedule 6 the date (or latest date) on which any such proposals were implemented;

“relevant amount” means 25% of the capacity of the school (before the enlargement) or 200 pupils whichever is the lesser.

**2.**—(1) An increase in the number of pupils in any relevant age group by an additional form of entry except any such increase taking effect in the 1999–2000 school year.

(2) In this paragraph a form of entry means—

- (a) the number of pupils who are normally taught together in one class at the school, or
- (b) 30,

whichever is the less.

**3.** The alteration of the upper or lower age limits of the school by a year or more, except—

- (a) any alteration which consists of providing or ceasing to provide education for pupils over compulsory school age who are repeating a course of education completed before they reached compulsory school age; or

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**(a)** 1980 c. 20. Sections 12 and 13 are repealed by Schedule 38 to the Education Act 1996;

**(b)** 1993 c. 35 repealed by Schedule 38 to the Education Act 1996;

**(c)** 1996 c. 56. Sections 36, 43 and 261 are prospectively repealed by Schedule 31 to the Act.

- (b) any alteration of the upper age limit of the school resulting from persons beginning or ceasing to be provided with education falling within section 80(1) of the Act.

In this paragraph the upper and lower age limits of a school means respectively the highest and the lowest ages of pupils for whom education is normally provided at the school.

- 4. The establishment or discontinuance of provision which is recognised by the local education authority as reserved for children with special educational needs.
- 5. The introduction of admission arrangements to which section 101(1) of the Act applies.
- 6. The revision of admission arrangements of a grammar school such as is mentioned in section 109(1) of the Act.
- 7. An alteration to a school to provide that—
  - (a) a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes; or
  - (b) a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only.

For the purposes of this paragraph a school is to be treated as an establishment which admits pupils of one sex only if the admission of pupils of the other sex—

- (a) is limited to pupils over compulsory age; and
  - (b) does not exceed 25% of the number of pupils in the age group in question normally at the school.
- 8.—(1) The introduction or ending of boarding provision.
- (2) The alteration of boarding provision such that the number of pupils for whom boarding provision is made is increased or decreased by 50 pupils or 50% (whichever is the greater).
9. The transfer of a school to a new site except—
- (a) where the transfer is to a site which formerly consisted of playing fields used by the school;
  - (b) where, in the opinion of the local education authority—
    - (i) it is not reasonably practicable to make to the existing premises of the school any alterations necessary to secure that they conform to the standards prescribed under section 542 of the Education Act 1996, or
    - (ii) the teaching accommodation at the school is too small to enable teaching to be undertaken satisfactorily in the light of the number of pupils at the school and it is not reasonably practicable to enlarge the teaching accommodation; or
  - (c) where the transfer has been authorised by an order made before 1st September 1999 under section 47 of the Education Act 1996;

and, in the case of a transfer such as is described in sub-paragraph (a) or (b), where the main entrance of the school on its new site will be within 3.218688 kilometres (two miles) of the main entrance of the school on its old site.

In this paragraph “playing fields” have the same meaning as in section 77 of the Act.

## SCHEDULE 2

Regulation 4

### INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS

#### PART I

#### INFORMATION TO BE CONTAINED IN ALL PUBLISHED PROPOSALS TO ESTABLISH, ALTER OR DISCONTINUE A SCHOOL

- 1. The name of the persons or body publishing the proposals.
- 2. The date on which the proposals are planned to be implemented or, where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.

- 3.** A statement explaining the effect of paragraph 2 of Schedule 6 or, as the case may be, paragraph 7 of Schedule 7 and regulation 7 including–
- (a) the date by which objections should be sent to the relevant local education authority or school organisation committee; and
  - (b) the address of the local education authority or school organisation committee to which objections should be sent.

## PART II

### ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO ESTABLISH A NEW SCHOOL

- 4.** The location of the site of the proposed school (including, where appropriate, the postal address).
- 5.** The category (as set out in section 20(1) of the Act) into which the proposed school will fall.
- 6.** Information on–
- (a) whether the new school will admit pupils of both sexes or whether it will admit pupils of one sex only; and
  - (b) whether it is proposed that the admission arrangements for the new school will make provision for selection by ability such as is mentioned in section 101 of the Act (pupil banding).
- 7.** Where the proposed school is to be established in substitution for one or more discontinued grammar schools a statement to this effect and (if regulations under section 104(5) of the Act so provide) a statement that the school may be designated as a grammar school for the purpose of Chapter II of Part III of the Act.
- 8.** If the new school is to have a religious character, information about such religious character.
- 9.** The proposed arrangement for transport of pupils to the new school.
- 10.** The number of pupils to be admitted to the new school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the new school in the first school year in which each stage has been implemented.
- 11.** Where the proposed school is to be established on the site which is occupied by a school to which section 15 of the Act applies and which it is intended to discontinue, a statement as to how the curriculum, staffing and (if relevant) the buildings of the proposed school will differ from those of the school proposed to be discontinued.
- 12.** A statement as to whether the governing body of the proposed school of the local education authority will be the admission authority.
- 13.** Where the proposals are to establish a new voluntary controlled or foundation school a statement as to whether the proposals are to be implemented by the local education authority or by the promoters, and, if the proposals are to be implemented by both, a statement as to the extent to which they are to be implemented by each body.

### PART III

#### ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

14. A description of the proposed alteration.

15. Where the alteration is an alteration falling within paragraph 1(1) or 2 of Schedule 1 to these Regulations, a statement of the number of pupils at the school at the time of publication of the proposals, the capacity of the school and the proposed capacity of the school after the alteration.

16. The number of pupils to be admitted to the school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the school in the first school year in which each stage has been implemented.

17. Where the proposals relate to a foundation or voluntary controlled school a statement as to whether the proposals are to be implemented by the local education authority or by the governing body, and, if the proposals are to be implemented by both, a statement as to the extent to which they are to be implemented by each body.

### PART IV

#### ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO DISCONTINUE A SCHOOL

18. Details of the schools which pupils who are at the school to be discontinued may attend including any interim arrangements.

19. Details of any other measures proposed to be taken to increase the number of school places available in consequence of the proposed discontinuance.

20. The proposed arrangements for transport of such pupils to other schools.

### PART V

#### INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO VARY A STANDARD NUMBER

21. The name of the local education authority or governing body publishing the proposals.

22. The standard number applying to the school at the time of the publication of the proposals for the relevant age group to which the proposals relate.

23. The standard number proposed for that relevant age group.

24. The number of pupils admitted to the school in that relevant age group during the school year in which the proposals are published.

25. The date from which it is proposed that the new standard number should take effect.

26. A statement explaining the effect of paragraph 5(4) and (5) of Schedule 23 and regulation 7 including—

- (a) the date by which objections should be sent to the school organisation committee; and
- (b) the address of the school organisation committee to which objections should be sent.

INFORMATION TO BE SENT TO THE SCHOOL ORGANISATION COMMITTEE  
OR THE SECRETARY OF STATE

## PART 1

## INTERPRETATION

## 1.—(1) In this Schedule—

“the current school year” means the school year in which the proposals are published;

“GCE ‘A’ level examinations” and “GCE ‘AS’ examinations” means General Certificate of Education advanced level examinations and General Certificate of Education advanced supplementary examinations respectively;

“GCSE” means General Certificate of Secondary Education;

“GNVQ” means General National Vocational Qualification;

“nursery education” means education provided for children who are below compulsory school age;

“NVQ” means National Vocational Qualification;

“sixth form education” means full-time education suitable to the requirements of pupils over compulsory school age.

## (2) Any reference in this Schedule to the relevant radius is—

(a) where the school or proposed school the subject of the proposals is, or is to be, a primary school, a radius of 3.218688 kilometres (two miles); and

(b) where the school or proposed school the subject of the proposals is, or is to be, a secondary school, a radius of 4.828032 kilometres (three miles).

(3) Any reference in this Schedule to proposals being approved includes, where appropriate, the local education authority determining to implement the proposals under paragraph 4 of Schedule 6.

## PART II

INFORMATION TO BE SENT IN ALL CASES WHERE PROPOSALS ARE  
PUBLISHED UNDER SECTION 28 OR 29

## 2. The objectives of the proposal.

## 3. Evidence of the consultation before the proposals were published including—

(a) copies of the consultation documents; and

(b) the views and responses from the persons consulted.

4. A map showing the location of the school or proposed school the subject of the proposals and all other community, voluntary and foundation schools within the relevant radius of the school or proposed school.

5. A list of all schools within the relevant radius of the school or proposed school the subject of the proposals, stating which of such schools are maintained by a different local education authority, together with the following information in respect of each such school for the current school year, and (except for the information specified in sub-paragraph (d)) the previous school year;

(a) the standard number for each relevant age group;

(b) the number of year groups;

(c) the capacity of the school; and

(d) the number of pupils at the school

and a forecast of the matters specified in sub-paragraphs (b) to (d) for each of the subsequent five school years.

### PART III

#### ADDITIONAL INFORMATION TO BE SENT WHERE PROPOSALS ARE TO ESTABLISH A NEW SCHOOL

- 6.** The following information relating to the proposed school—
- (a) the number of year groups;
  - (b) the capacity of the proposed school; and
  - (c) where it is intended that the proposed school should provide nursery education—
    - (i) the number of pupils for whom it is intended that such education is to be provided, and
    - (ii) the capacity of the accommodation to be provided for nursery education

for the school year in which the school will be open and a forecast of those matters for the subsequent four school years.

- 7.** The following information relating to the proposed accommodation (including temporary accommodation)—

- (a) the location of the accommodation;
- (b) whether the proposed school is to occupy a single or split site;
- (c) how accessible the accommodation will be;
- (d) details of general and specialist accommodation (both teaching and non teaching); and
- (e) (where relevant) details of accommodation for nursery education.

**8.** Where the proposed school is to be established in substitution for an independent school the information referred to in paragraph 7 relating to the accommodation at the independent school.

**9.** A statement indicating how the proposal would contribute to enhancing the diversity, quality of education and the extent to which parental preference can be met.

**10.** A breakdown of the costs of the establishment of the proposed school together with details of how it is proposed to fund the proposals.

**11.—(1)** Information as to whether the school will have provision which is recognised by the local education authority as reserved for children with special educational needs and, if so, the nature of such provision and the proposed number of pupils for whom such provision is to be made.

(2) Details of the proposed policy of the school relating to the education of pupils with special educational needs.

**12.** Details of the proposed staffing of, and the balance of specialisms at, the proposed school.

**13.** Details of how the proposed curriculum at the school will meet the requirements of the basic curriculum (within the meaning of section 352 of the Education Act 1996<sup>(a)</sup>) and any provision which will be in addition to the basic curriculum.

**14.** Where the proposed school is to be a voluntary aided school—

- (a) details of the tenure (freehold or leasehold) on which the site of the proposed school will be held, and if the site is to be held on a lease, details of the proposed lease;

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<sup>(a)</sup> Section 352 is prospectively amended by paragraph 86 of Schedule 30 to the Act.

- (b) details of the trusts on which the site is to be held together with details of any arrangements to secure that, if the proposed school is discontinued or transfers to a new site, the proceeds of sale of the site will be available for use in connection with another maintained school;
- (c) the estimated purchase price of the site (and any existing buildings to be used);
- (d) the amount of grant under paragraph 5 or 6 of Schedule 3 to the Act in respect of the acquisition of the site for which it is intended that an application should be made.
- (e) a breakdown of costs between–
  - (i) the costs to be borne by the governing body together with the level of grant under paragraph 5 or 6 of Schedule 3 to the Act in respect of those costs for which it is intended that an application shall be made; and
  - (ii) the costs to be borne by the local education authority, profiled over the expected life of the buildings of the proposed school;
- (f) a statement as to whether, as a result of the proposals, premises used for the purposes of another school will no longer be required and if so–
  - (i) a statement as to whether those premises will be sold, and if so, what is the estimated sale proceeds,
  - (ii) if those premises are not to be sold, a statement as to the proposed use of the premises;
- (g) a statement that the governing body will be able and willing to carry out their obligations under Schedule 3 to the Act;
- (h) a statement as to whether the freehold interest in the proposed site is to be held by the trustees of the school and if it is not, details of the ownership of the freehold interest in the site;
- (i) a statement as to whether the Secretary of State has indicated that in principle grant will be paid under paragraph 5 or 6 of Schedule to the Act; and
- (j) a statement as to whether the proceeds of sale of other premises will be available to the trustees.

**15.** Where the proposed school is to be a foundation school a statement as to whether the school–

- (a) will have a foundation established otherwise than under the Act;
- (b) will belong to a group of schools for which a foundation body acts under section 21 of the Act; or
- (c) will not fall within sub-paragraph (a) or (b).

**16.** Where the proposed school is to be a foundation or voluntary school which it is proposed should have a religious character, an estimate of the demand in the area for religious education in accordance with the tenets of the religion or religious denomination in question.

**17.** Where the proposed school is to be a voluntary or foundation school established in substitution for an independent school–

- (a) a statement as to the likely future of the independent school if the proposals are rejected; and
- (b) copies of accounts for the independent school for the previous two years.

**18.** Where the establishment of the new school involves development for the purpose of the Town and Country Planning Act 1990 a statement as to whether planning permission has been obtained and, if it has not been obtained, details of the reason (if known) why such permission has not been obtained.

## PART IV

### ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

**19.** The following information relating to the school for the current school year and (except for the information specified in paragraph (c)), the previous school year—

- (a) the number of year groups;
- (b) the capacity of the school; and
- (c) the number of pupils at the school

and a forecast of those matters for each of the subsequent five school years on the assumption that the proposals are approved.

**20.—(1)** A statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996<sup>(a)</sup> during the period starting three years before the date of the publication of the proposals.

(2) Where the school has been inspected during that period the date of the inspection and details of the outcome of the inspection.

**21.** Except where the proposals are such as are mentioned in paragraph 28(e) below, details of how the curriculum at the school meets the requirements of the basic curriculum (within the meaning of section 352 of the Education Act 1996) and any provision which will be in addition to the basic curriculum.

**22.** Where the proposals relate to a voluntary school—

- (a) a statement as to whether any new or additional site will be required for the school if the proposals are implemented and if so—
  - (i) details of the tenure (freehold or leasehold) on which the site will be held, and if the premises are to be held on a lease, details of the proposed lease,
  - (ii) details of the trusts on which the site is to be held together with details of any arrangements to secure that if the school is discontinued or transfers to a new site the proceeds of sale of the site will be available for use in connection with another maintained school,
  - (iii) the estimated purchase price of the site (and any existing buildings to be used), and
  - (iv) the amount of grant under paragraph 5 or 6 of Schedule 3 to the Act in respect of the acquisition of the site for which it is intended that an application should be made;
- (b) a breakdown of any costs involved in the implementation of the proposals between—
  - (i) the costs to be borne by the governing body together with the level of grant under paragraph 5 or 6 of Schedule 3 to the Act in respect of those costs for which it is intended that an application should be made, and
  - (ii) the costs to be borne by the local education authority,profiled over the expected life of the buildings of the school; and
- (c) a statement as to whether, as a result of the proposals, premises used for the purposes of the school will no longer be required and if so—
  - (i) a statement as to whether those premises will be sold, and, if so, the estimated sale proceeds, and
  - (ii) if the premises are not to be sold a statement as to the proposed use of the premises.

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<sup>(a)</sup> 1996 c. 57. Subsection (3) of section 10 is amended and subsections (4A) and (4B) inserted by paragraph 6 of Schedule 6 to the Education Act 1997 (c. 44) and the section is prospectively amended by paragraph 191 of Schedule 30 to the Act.

23. Where the proposals are to make an enlargement of the premises of the school–

- (a) details of how it is intended to fund the implementation of the proposals; and
- (b) an estimate of any recurrent savings to–
  - (i) the individual schools budget for the local education authority, or
  - (ii) transport and other recurrent costs incurred by the local education authoritywhich would occur if the proposals were implemented.

24. Where the proposals are to alter the upper age limit of the school so that the school provides sixth form education or additional sixth form education–

- (a) the proposed numbers of pupils over compulsory school age in the school year in which the proposals are intended to be implemented and the subsequent school year, if the proposals are approved;
- (b) details of any full time sixth form education currently provided;
- (c) details of the number of pupils over compulsory school age in each year group leaving the school and transferring to other institutions providing full time education together with the names of the institutions in question for the most recent school year ending before that in which the proposals were published;
- (d) the number of pupils referred to in sub-paragraph (c) in each year group as a proportion of the total number of pupils in that year group;
- (e) details of the following examination results for the two school years before the current school year at the school the subject of the proposals and at each maintained school, city technology college and institution within the further education sector named pursuant to sub-paragraph (c)–
  - (i) results of GCSE examinations, limited in the case of schools other than the school the subject of the proposals and institutions in the further education sector, to the results of GCSE examinations taken by pupils over compulsory school age,
  - (ii) results of GCE A and AS examinations, or
  - (iii) NVQs, GNVQs and other vocational qualifications for pupils over compulsory school age;
- (f) a development plan of the school setting out the long term effect of the proposals;
- (g) details of the courses to be offered (if the proposals are approved) leading to GCE A and AS level examinations, advanced vocational qualifications and the forecast demand for each such course including details of how the requirement for religious education of pupils over compulsory school age will be met;
- (h) the proposed number of pupils who will be provided with sixth form education if the proposals are approved;
- (i) the capacity of the proposed accommodation for pupils who will be provided with sixth form education if the proposals are approved;
- (j) the number of places available at those institutions named pursuant to sub-paragraph (c) which are schools;
- (k) details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals; and
- (l) details of–
  - (i) any additional specialist resources to support the proposed provisions,
  - (ii) arrangements to inform pupils and parents about the opportunities for education suitable to the requirements of pupils over compulsory school age in the area, and
  - (iii) the present and proposed arrangements for co-operation and the exchange of information between the school the subject of the proposals, other maintained schools and institutions within the further education sector.

**25.** Where the proposals are to alter the upper age limit of the school so that the school ceases to provide sixth form education–

- (a) details of the number of pupils over compulsory school age in each year group remaining at the school the subject of the proposals in the two school years before the current school year;
- (b) details of the number of pupils over compulsory school age in each year group who have transferred from the school the subject of the proposals to another institution providing full-time or part-time education during the period referred to in sub-paragraph (a);
- (c) details of the institutions to which the pupils referred to in sub-paragraph (b) transferred indicating how many people went to each such institution;
- (d) the number of pupils referred to in sub-paragraphs (a) and (b) in each year group as a proportion of the total number of pupils in that year group;
- (e) the following details of the sixth form education currently provided–
  - (i) courses leading to GCE “A” and “AS” examinations,
  - (ii) courses leading to advanced vocational qualifications (in particular advanced GNVQs),
  - (iii) other courses, and
  - (iv) the number of pupils attending each course;
- (f) details of transitional arrangements which will apply to pupils currently receiving sixth form education if the proposals are approved;
- (g) details of the examination results referred to in paragraph 24(e) for the two school years before the current school year at the school the subject of the proposals and at each maintained school, city technology college and institution within the further education sector named pursuant to sub-paragraph (c);
- (h) the number of places available at those institutions named pursuant to sub-paragraph (c) which are schools; and
- (i) the information referred to in paragraph 24(f) and (h).

**26.** Where the proposals are to establish provision such as is mentioned in paragraph 4 of Schedule 1 to these Regulations–

- (a) a description of the types of learning difficulties in respect of which education would be provided;
- (b) what additional specialist features will be provided;
- (c) the proposed numbers of pupils for which the provision is to be made;
- (d) details of how the provision would be funded;
- (e) a statement as to whether the education will be provided for children with special educational needs who are not registered pupils at the school to which the proposals relate;
- (f) a statement as to whether the expenses of the provision would be met from the school’s delegated budget; and
- (g) the location of the provision if it is not to be established on the existing site of the school.

**27.** Where the proposals are to discontinue provision such as is mentioned in paragraph 4 of Schedule 1 to these Regulations–

- (a) details of alternative provision for pupils for whom the provision is currently made;
- (b) details of number of pupils at the unit during each of the four school years preceding the current school year;
- (c) proposals for amendment of the statements of special educational needs of the pupils for which the provision is currently made; and
- (d) details of provision made outside the area of the local education authority for pupils whose needs will not be able to be met in the area of the local education authority as a result of the discontinuance of the provision.

**28.** Where the proposals are to alter the upper or lower age limits of the school (other than proposals such as are described in paragraph 24 or 25)–

- (a) the current age range of the school;
- (b) the proposed age range of the school if the proposals are approved;
- (c) any changes to the accommodation of the school which will be necessary if the proposals are approved;
- (d) proposed admission arrangements;
- (e) where the proposals are to alter the lower age limit of the school such that the school provides nursery education or additional nursery education–
  - (i) details of how the education resulting from the proposals (if implemented) will be organised, including the number of full-time and part-time pupils and the number of sessions in each week,
  - (ii) the extent to which the proposals, if approved, will integrate the education provided with child care services or are consistent with the integration of nursery education and child care,
  - (iii) evidence of demand for additional provision of nursery education including the numbers of pupils receiving such education at schools maintained by the local education authority within the relevant radius of the school,
  - (iv) if any of the schools within the relevant radius of the school has unused capacity to accommodate children under compulsory school age a statement of the reasons why such school cannot make provision for any forecast increase in the number of such children,
  - (v) an estimate of the proportion of children under compulsory school age in the area of the local education authority who are educated at schools maintained by the local education authority,
  - (vi) an estimate of the proportion of children referred to in paragraph (v) of this sub-paragraph who are educated at schools not maintained by the local education authority,
  - (vii) an estimate of the proportion of children referred to in paragraph (v) of this sub-paragraph who are educated at schools maintained by the local education other than in reception classes (within the meaning of section 579(1) of the Education Act 1996),
  - (viii) an estimate of the extent of deprivation in the area served by the school, and
  - (ix) whether child care will be provided outside school hours if the proposals are approved; and
- (f) details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals.

**29.** Where the proposals are for the introduction of admission arrangements to which section 101 of the Act applies, the proposed number of ability bands and the percentage of pupils proposed to be admitted to the school who will be admitted into each band.

**30.** Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes–

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) details of any transitional period which the body making the proposals wishes specified in a transitional exemption order (within the meaning of section 27 of the Sex Discrimination Act 1975(a)).

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(a) 1975 c. 65. Section 27 is prospectively amended by paragraph 6 of Schedule 30 to the Act.

**31.** Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only, details of the likely effect which the alteration will have on the balance of the provision for boys and girls in the area.

**32.** Where the proposals are proposals for the introduction or ending of boarding provision, or the alteration of boarding provisions such as is mentioned in paragraph 8(2) of Schedule 1 to these Regulations—

- (a) the current number of pupils for whom boarding provision can be made;
- (b) the number of pupils for whom it is intended that boarding provision will be made if the proposals are approved;
- (c) except where the proposals are to introduce boarding provision, a description of the boarding provision;
- (d) where the proposals are to end or reduce boarding provision a statement as to the use to which the former boarding accommodation will be put if the proposals are approved; and
- (e) except where the proposals are to end boarding provision, arrangements for safeguarding the welfare of children at the school.

**33.** Where the proposals are to transfer a school to a new site—

- (a) the map such as is referred to in paragraph 4 showing the location of the school at the proposed new site (as well as the existing site);
- (b) the information referred to in paragraph 5 relating to schools within the relevant radius of the school at its proposed new site (as well as its existing site);
- (c) the following information relating to the accommodation both at the old site and at the proposed new site—
  - (i) the location of the accommodation and proposed accommodation,
  - (ii) whether the school occupies a single or split site, and whether it is proposed that it should occupy a single or split site.
  - (iii) how accessible the accommodation is, and how accessible the proposed accommodation will be,
  - (iv) details of the general and specialist accommodation and proposed accommodation (both teaching and non-teaching), and
  - (v) (where relevant) details of accommodation and proposed accommodation for nursery provision;
- (d) whether it is anticipated that there will be a shortage of school places at the schools within the relevant radius of the school at its existing site;
- (e) if any of the schools within the relevant radius of the proposed new site has unused capacity, a statement of the reasons why such school cannot make provision for any forecast increase in the numbers of children who might otherwise attend that school; and
- (f) details of any recurrent costs following implementation of the proposals, and any savings in expenditure as a result of implementation of the proposals.

**34.** Where the implementation of the proposals will involve development for the purpose of the Town and Country Planning Act 1990 a statement as to whether planning permission has been obtained, and, if it has not been obtained, details of the reason (if known) why such permission has not been obtained.

**35.** Where the school is a voluntary or foundation school which has a religious character, except where the proposals are to transfer the school to a new site, an estimate of the demand in the area for religious education in accordance with the tenets of the religion or religious denomination in question.

## PART V

### ADDITIONAL INFORMATION TO BE SENT WHERE THE PROPOSALS ARE TO DISCONTINUE A SCHOOL

**36.** The following information relating to the school for the current school year and (except for the information specified in sub-paragraph (d)), the previous school year—

- (a) the standard number for each relevant age group;
- (b) the number of year groups;
- (c) the capacity of the school; and
- (d) the number of pupils at the school.

**37.** The following information relating to the accommodation at the school—

- (a) the location of the accommodation;
- (b) whether the school occupies a single or split site; and
- (c) details of general and specialist accommodation.

**38.** Details of proposals for pupils who are currently at the school to transfer to other schools together with any appropriate transitional provisions.

**39.** An assessment of the quality of any schools to which it is proposed that such pupils may transfer.

**40.** Where the school provides sixth form education, the information specified in paragraph 25 in relation to the school.

## PART VI

### INFORMATION TO BE SENT WHERE PROPOSALS ARE PUBLISHED UNDER PARAGRAPH 5 OF SCHEDULE 23

**41.** The objectives of the proposal.

**42.** Except where the application to vary a standard number is made in accordance with section 93(7) of the Act, evidence of the consultation which has taken place as required by paragraph 5(2) of Schedule 23 and evidence of any consultation required by section 89(2) of the Act relating to proposed admission arrangements where such arrangements have given rise to the proposal to vary a standard number, including—

- (a) copies of the consultation documents; and
- (b) the views and responses from the persons consulted.

**43.** Where the application to vary a standard number is made in accordance with section 93(7) of the Act, a copy of the proposal made under section 93(5) of the Act and of the notice referred to in section 93(6) of the Act rejecting that proposal.

**44.** The number of pupils at the school during the current school year.

**45.** Where there is to be any change in the capacity of the school to accommodate pupils (calculated having regard to the guidance referred to in paragraph 6(11) of Schedule 23) a statement of the capacity before and after the proposed change.

**46.** Where there is no change in the capacity of the school to accommodate pupils (calculated having regard to the guidance referred to in paragraph 6(11) of Schedule 23), evidence of the need for the proposed change.

47. Where the proposal is to enable the objective referred to in paragraph 11(1)(b) of Schedule 23 to be achieved, a statement as to whether the proposed standard number was shown in the statement prepared under section 2 of the Act.

48. A plan of the school showing the school buildings before any changes to the school buildings resulting from which the application is made, or which are proposed if a decision is made in accordance with the application, and a plan of the school showing the school buildings after such changes.

49. Details of the gross area of the school and the gross teaching area of the school in square metres.

50. Details of the number of pupils in each year group in the current school year and the preceding four school years.

51. A statement as to whether—

- (a) a credit approval has been issued to the local education authority under section 53 or 54 of the Local Government and Housing Act 1989(a); or
- (b) (where the school is voluntary aided school) the Secretary of State has indicated in principle that grant will be paid to the governing body under paragraph 5 of Schedule 3 to the Act,

in respect of the addition or removal of accommodation at the school associated with proposals.

#### SCHEDULE 4

Regulation 15(1)

#### PROVISIONS OF SECTION 28 AND SCHEDULE 6 APPLYING TO PROPOSALS PUBLISHED UNDER PARAGRAPH 5(4) OF SCHEDULE 6

The provisions of the Act specified in the left hand column of the table below shall have effect in relation to proposals published under paragraph 5(4) of Schedule 6 and, where modifications are specified in the right hand column of the table, shall have effect with those modifications.

| <i>Provision</i> | <i>Modification</i>  |
|------------------|--|
| Section 28(3).   | <p>That subsection shall have effect as if for paragraphs (a) and (b) and the words “as may be prescribed” there were substituted—</p> <p>“contain—</p> <ul style="list-style-type: none"><li>(a) the information contained in the original proposals; and</li><li>(b) a statement as to why it is proposed that paragraph 5(1) of Schedule 6 should not apply in relation to the original proposals,</li></ul> <p>and in this section “the original proposals” means the proposals to which it is proposed that paragraph 5(1) of Schedule 6 should not apply”.</p> |
| Section 28(5).   | <p>That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 5(4) of Schedule 6”.</p>   |
| Section 28(6).   | <p>That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 5(4) of Schedule 6” and for paragraph (b) there were substituted—</p> <ul style="list-style-type: none"><li>“(b) a copy of the information sent to the committee under regulations under this subsection when the original proposals were published (or,</li></ul>   |

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(a) 1989 c. 42.

where the original proposals were published before 1st September 1999, any information sent to the Secretary of State in connection with the proposals); and

- (c) the information prescribed in Schedule 3 to the Education (School Organisation Proposals) (England) Regulations 1999 which would have been applicable if the original proposals had been published at the time when the proposals under paragraph 5(4) of Schedule 6 were published.”.

Section 28(10).

That subsection shall have effect as if for the words “the local education authority, governing body or promoters mentioned in subsection (1) or (2) (as the case may be)” there were substituted the words “the body or promoters who, in accordance with paragraph 5(4) of Schedule 6, published the proposals”.

Schedule 6

Paragraph 1.

That paragraph shall have effect as if in sub-paragraph (1) for the words “published under section 28, 29 or 31” there were substituted the words “published under paragraph 5(4)”.

Paragraph 2.

That paragraph shall have effect as if—

in sub-paragraph (1) for “section 28 29 or 31” there were substituted “paragraph 5(4)”;

in sub-paragraph (2)(a) for “such period as may be prescribed” there were substituted “two months from the date on which the proposals were published.”;

in sub-paragraph (2)(b) for “such period as may be prescribed” there were substituted “one month from the end of the objection period”;

in sub-paragraph (3) for “such period as may be prescribed” there were substituted “two months from the date on which the proposals were published”.

## SCHEDULE 5

Regulation 15(2) and (4)

### OTHER MODIFICATIONS TO SECTION 28, SECTION 29 AND SCHEDULES 6 AND 23 IN SPECIAL CASES

#### PART I

##### MODIFICATIONS TO SECTIONS 28 AND 29 AND SCHEDULE 6

**1.—**(1) In relation to proposals published under section 28 of the Act for the transfer of a school to a site in a different area section 28(6) shall have effect as if for “or (in the case of a new school) who it is proposed should maintain the school” there were substituted—

“and to the school organisation committee for the area of the other relevant local education authority and in this subsection the other relevant local education authority is—

- (i) where the existing site of the school is in the area of the local education authority who maintain the school, the local education authority in the area of which the proposed new site of the school is to be situated,
- (ii) where the proposed new site of the school is in the area of the local education authority who maintain the school, the local education authority for the area in which the existing site of the school is situated, and

- (iii) where neither the existing site, nor the proposed new site of the school are in the area of the local education authority who maintain the school, the local education authority for the area in which the existing site of the school is situated.”.

2. In relation to proposals (other than those mentioned in paragraph 1) published under section 28 or 29 of the Act which relate to a school which is or (in the case of a new school) is proposed to be, situated in an area other than that of the local education authority who maintain or (as the case may be) who it is proposed should maintain the school,

- (a) section 28(6) shall have effect as if at the end there were added “and to the school organisation committee for the area of the local education authority in which the school is, or (in the case of a new school) is proposed to be, situated”; and
- (b) section 29(5) shall have effect as if at the end there were added “and to the school organisation committee for the area of the local education authority in which the school is situated”.

3. In relation to proposals described in paragraphs 1 and 2 above, paragraph 3 of Schedule 6 shall have effect as if—

- (a) for sub-paragraph (2) there were substituted the following sub-paragraph—

“(2) Where are proposals require approval under this paragraph, they shall be considered in the first instance by the relevant committee (“committee A”) who, subject to subparagraph (6)(b) and (c), may, after seeking and, unless the other committee to whom the proposals were sent under section 28(6) (“committee B”) have failed to reach a decision on what recommendation to give, obtaining the recommendation of committee B—

- (a) reject the proposals;
- (b) approve them without modification; or
- (c) approve them with such modifications as the committee think desirable after consulting the body who published the proposals and, where the proposals were published to establish a new foundation or voluntary school or were published by the governing body of a school, the local education authority who maintain or who it is proposed should maintain, the school.”;

- (b) after sub-paragraph (3) there were inserted the following sub-paragraphs—

“(3A) Where under sub-paragraph (2) the recommendation of committee B is sought, that committee, in deciding what recommendation to give, shall have regard to—

- (a) any guidance given from time to time by the Secretary of State, and
- (b) the school organisation plan for the committee’s area.

(3B) Where—

- (a) under sub-paragraph (2) the recommendation of committee B is sought; and
- (b) in accordance with regulations under paragraph 5 of Schedule 4 the question of what recommendation to give to committee A falls to be decided by a unanimous decision; but
- (c) committee B have failed to reach a decision on what recommendation to give, committee B shall inform committee A of that fact.”;

- (c) for sub-paragraph (6) there were substituted the following sub-paragraph—

“(6) If committee A—

- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision but have failed to reach a decision on that matter;
- (b) have voted not to accept the recommendation of committee B; or
- (c) have been informed by committee B under sub-paragraph (3B) that committee B is unable to reach a decision on what recommendation to give,

they shall refer the proposals to the adjudicator.”; and

- (d) for sub-paragraph (7) there were substituted the following sub-paragraph–
- “(7) where any proposals are referred to the adjudicator under sub-paragraph (5) or (6)–
- (a) he shall consider the matter afresh;
  - (b) he may–
    - (i) reject the proposals;
    - (ii) approval them without modification, or
    - (iii) approve them with such modifications as the adjudicator may think desirable after consulting the body who published the proposals and, where the proposals were published to establish a new foundation or voluntary school or were published by the governing body of a school, the local education authority who maintain or who it is proposed maintain, the school;
  - (c) sub-paragraph (3) shall apply to the adjudicator in connection with his decision on the proposals as it applies to the relevant committee; and
  - (d) when deciding whether or not to give any approval under this paragraph the adjudicator shall have regard to–
    - (i) any guidance given from time to time by the Secretary of State; and
    - (ii) the school organisation plans for the area of the areas of the relevant committee and the other committee to whom the proposals were sent under Section 28(6);
- and the adjudicator shall not give any such approval until he is satisfied that adequate financial resources will be available to enable the proposals to be implemented.”.

## PART II

### MODIFICATIONS TO SCHEDULE 23

- 4.** In relation to proposals published under paragraph 5 of Schedule 23 which relate to a school which is situated in an area other than that of the local education authority who maintain the school, paragraph 5 of Schedule 23 shall have effect as if–
- (a) at the end of sub-paragraph (1)(b) there were added “for the area of the local education authority which maintains the school (“committee A”) and to the school organisation committee for the area of the local education authority in which the school is situated (“committee B”)”;
  - (b) for sub-paragraph (2) there were substituted the following sub-paragraphs–
    - “(2) Before the local education authority makes such an application they shall consult the local education authority in whose area the school is situated and the governing body.
    - (2A) Before the governing body makes such an application they shall consult the local education authority who maintain the school and the local education authority in whose area the school is situated.”;
  - (c) in sub-paragraph (3) after “(2)” there were inserted “or (2A)”;
  - (d) in sub-paragraph (5) for “the school organisation committee” there were substituted “committee A”.
- 5.** In relation to proposals described in paragraph 4 above, paragraph 6 of Schedule 23 shall have effect as if–
- (a) in sub-paragraph (1) for “the school organisation committee may” there were substituted “committee A, subject to sub-paragraph (8)(b) and (c) may, after seeking, and, unless committee B have failed to reach a decision on what recommendation to give, obtaining the recommendation of committee B”;
  - (b) after sub-paragraph (1) there were inserted the following sub-paragraphs–
    - “(1A) Where under sub-paragraph (1) the recommendation of committee B is sought, that committee, in deciding what recommendation to give, shall have regard to–

- (a) any guidance given from time to time by the Secretary of State;
- (b) the school organisation plan for the area in which the school is situated; and
- (c) where the application is for the reduction of a standard number at a primary school, any limit imposed under section 1 which applies to that school and to any other school which is likely to be affected if any reduction of that number were to be made.

(1B) Subject to sub-paragraph (1C), committee B shall not make a recommendation that the standard number be reduced unless they are satisfied that the reduction is necessary having regard to the school's capacity to accommodate pupils.

(1C) Where—

- (a) an application is for a reduction of any standard number applicable to admissions to an infant class (as defined by section 4); and
- (b) committee B are satisfied that the admission to the school in any school year of a number of children in any relevant age group equal to the relevant standard number would cause prejudice of the kind referred to in section 86(3)(a) by reason of measures required to be taken as mentioned in subsection (4) of that section,

committee B shall make a recommendation that the standard number be reduced by the smallest number which they consider sufficient to avoid such prejudice arising.

(1D) Where—

- (a) under sub-paragraph (1) the recommendation of committee B is sought; and
- (b) in accordance with regulations under paragraph 5 of Schedule 4 the question of what recommendation to give to committee A falls to be decided by a unanimous decision; but
- (c) committee B have failed to reach a decision on what recommendation to give,

committee B shall inform committee A of that fact.”;

- (c) in sub-paragraph (2) after “the local education authority” there were inserted “who maintain the school”;
- (d) in sub-paragraph (3)(b) for “the area in which the school is situated” there were substituted “the area of the local education authority who maintain the school”;
- (e) for sub-paragraph (8) there were substituted the following sub-paragraph—

“(8) If committee A—

- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under sub-paragraph (1) by a unanimous decision but have failed to reach a unanimous decision on that matter;
- (b) have voted not to accept the recommendation of committee B; or
- (c) have been informed by committee B under sub-paragraph (1D) that committee B is unable to reach a decision on what recommendation to give,

they shall refer the application to the adjudicator.”; and

- (f) for sub-paragraph (9) there were substituted—

“(9) Where any application is referred to the adjudicator under sub-paragraph (7) or (8)—

- (a) he shall consider the application afresh; and
- (b) sub-paragraphs (1) (without the reference to seeking and obtaining the recommendation of committee B), (2), (3)(a) and (c), and (4) to (6) shall apply to him in connection with his decision on the application as they apply to the committee; and

- (c) when making any decision in accordance with sub-paragraph (1) the adjudicator shall have regard to the school organisation plan for the area of committee A and committee B”.

## EXPLANATORY NOTE

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

These Regulations prescribe various matters relating to proposals for the establishment, alteration and discontinuance of schools maintained by local education authorities other than special schools.

Regulation 3 with Schedule 1 prescribes (for the purposes of section 28 of the School Standards and Framework Act 1998) the alterations for which notice of proposals must be published. Regulation 4 with Schedule 2 prescribes the information which must be contained in published proposals and regulation 5 prescribes the manner in which such proposals must be published. Regulation 6 with Schedule 3 prescribes additional information which has to be provided to the School Organisation Committee and (where proposals are published as result of an order by the Secretary of State under Schedule 7 to the School Standards and Framework Act 1998) to the Secretary of State. Regulation 7 prescribes the time limit for objecting to the proposals and the time limit within which (when proposals have been published by a local education authority) a local education authority must send copies of objections to the School Organisation Committee.

Regulation 8 prescribes the bodies with whom the school organisation committee or adjudicator must consult before approving proposals with modifications. Regulation 9 prescribes events which can be specified in a conditional approval.

Regulation 10 provides for the period after which, if the school organisation committee has not voted on a matter, they must, if the body by whom the proposals were published so requests, refer the matter to the adjudicator.

Regulation 11 prescribes the persons at whose request the school organisation committee or adjudicator may modify approved proposals and the bodies with whom the committee or adjudicator must consult before doing so.

Regulation 12 provides for the information which must be provided by the school organisation committee or adjudicator to various persons specified in regulation 12 in connection with published proposals.

Regulation 13 provides for the voting of the school organisation committee. Provision is made that each group of members is collectively to have a single vote when taking decisions relating to the approval of proposals to establish, alter or discontinue schools and that all such decisions must be unanimous decisions of those voting.

Regulation 14 provides for the time limit within which matters must be referred to the adjudicator.

Regulation 15 with Schedules 4 and 5 applies provisions of sections 28 and 29 of, and Schedules 6 and 23 to, the School Standards and Framework Act 1998 with modifications to cases where—

- (a) proposals are published under paragraph 5(4) of Schedule 6 to that Act that a body should not be under an obligation to implement approved proposals; or
- (b) proposals are published for the transfer of a school to a new site in a different local education authority area or which relate to a school which is, or is proposed to be, situated in an area other than that of its maintaining local education authority.

Regulation 16 makes provisions for the school organisation committee or adjudicator to review decisions on standard numbers.

Regulation 17 makes modifications to the regulations which will apply during certain transitional periods and in other special cases.

Regulation 18 amends the Education (School Organisation Proposals) (Transition to New Framework) Regulations 1999 to correct an error in those regulations and regulation 19 revokes two sets of regulations (insofar as they would otherwise remain in force) which deal with the manner of publication of certain proposals.

