

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

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 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—

Status: This is the original version (as it was originally made).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

- “(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.”.