

## SCHEDULE 5

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

## 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

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- (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”.