
STATUTORY INSTRUMENTS

1999 No. 2262

The Education (New Schools) (England) Regulations 1999

PART VII

GENERAL CONDUCT OF NEW SCHOOLS

Interpretation and application of Part VII

53.—(1) In this Part, “proposed school” means a proposed school (that is to say, one which has not yet opened) for which there is a temporary governing body constituted under section 44 of the 1998 Act, a transitional governing body treated as so constituted by virtue of regulation 13(5) of the Second Transitional Regulations, or a temporary governing body treated as so constituted by virtue of regulation 13 of the School Organisation Regulations.

(2) Regulations 55 to 61 shall apply in relation to a proposed school.

(3) Regulations 54 and 56 shall apply in relation to a maintained school on and after the school opening date.

Application of paragraph 3 of Schedule 10 to the 1998 Act on and after the school opening date

54. During the period—

(a) beginning with the school opening date; and

(b) ending with the time when the governing body are constituted for the school under an instrument of government,

paragraph 3 of Schedule 10 to the 1998 Act shall apply to the temporary governing body of a school as if they were the governing body of the school⁽¹⁾.

Conduct of the school before the opening date

55.—(1) Subject to any other statutory provision, the determination of matters relating to the conduct of a school which require to be determined in advance of the school opening date shall be under the direction of the temporary governing body and in addition the temporary governing body may, before the school opening date, do anything which appears to them to be necessary or expedient for the purposes of, or in connection with, the conduct of the school, whether before, on, or after that date.

(2) Subject to paragraphs (3) and (4), the temporary governing body of a proposed school may in particular in that connection—

(a) borrow such sums as they think fit and, in connection with such borrowing, grant any mortgage, charge or other security over any land or other property of the temporary governing body;

(1) Section 44(7) of the 1998 Act provides that the temporary governing body are, generally, treated as if they were the permanent governing body from the school opening date until constitution of the permanent governing body.

- (b) acquire and dispose of land and other property;
- (c) enter into contracts;
- (d) invest any sums which they do not immediately require;
- (e) accept gifts of money, land or other property and apply it, or hold and administer it on trust, for the purposes of the school; and
- (f) do anything incidental to their functions under paragraph (1).

(3) Sub-paragraphs (3) to (7) of paragraph 3 of Schedule 10 to the 1998 Act shall apply in relation to the exercise by the temporary governing body of their powers under sub-paragraphs (1) and (2) with the following modifications—

- (a) in paragraph 3(4) the expression “maintained schools” shall be treated as a reference to proposed schools which will be maintained schools and the reference to “the local education authorities by whence those schools are maintained” shall be treated as including the local education authorities by whom any such schools will be maintained;
- (b) references in paragraph 3(6) to a particular category of school shall be treated as including a reference to a proposed school which will be a school of that category;
- (c) the reference in paragraph 3(7)(a) to any provisions of the school’s instrument of government shall be treated as a reference to any ethos statement contained in the instrument of government once made, even though not yet in force; and
- (d) the reference in paragraph 3(7)(b) to the school shall be treated as including a reference to the proposed school.

(4) The temporary governing body of a proposed school which does not have a delegated budget may not exercise any of the powers set out in paragraph (2)(b) to (f)(2) without the prior agreement, in writing, of—

- (a) the local education authority, in the case of a proposed school which will be a community, community special, voluntary controlled or foundation special school or a foundation school, proposals for the establishment of which were published by a local education authority; or
- (b) the promoters, in the case of a proposed school which will be a voluntary aided school or a foundation school, proposals for the establishment of which were published by promoters.

(5) Paragraph (2) of regulation 37 of the Main School Government Regulations shall be amended by the addition of the following sub-paragraph:

- “(h) the exercise by the temporary governing body of a new school having a delegated budget, of any of the specific powers set out in regulation 55(2)(a) to (e) of the Education (New Schools)(England) Regulations 1999.”.

Execution of documents by the temporary governing body

56.—(1) On and after the school opening date the temporary governing body of a school shall be known as “the temporary governing body of . . .”, with the addition of the name of the school as for the time being set out in the school’s instrument of government.

(2) Only the chairman of the temporary governing body, or, where that is not reasonably practicable, the vice-chairman, may make and issue instruments on behalf of the temporary governing body.

(2) Since the power in paragraph 2(a) of this regulation is subject to the consent requirements of paragraph 3 of Schedule 10 as applied by paragraph (3) of this regulation, the power in paragraph 2(a) is not subject to the consent requirement imposed by paragraph (4) of this regulation.

(3) Every document purporting to be an instrument made or issued by or on behalf of the temporary governing body and to be signed or executed by the chairman or the vice-chairman of the temporary governing body shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Preparation of the curriculum

57.—(1) The head teacher of a proposed school shall, in preparing to discharge his functions under Part V of the 1996 Act in relation to the curriculum for the school, consult the temporary governing body and the local education authority.

(2) Any authority who have been consulted under this regulation shall inform the head teacher of the resources which are likely to be made available to the school; and the head teacher shall have regard to any information so given to him.

School terms, holidays and sessions

58.—(1) In the case of a proposed school which will be a community, voluntary controlled or community special school—

- (a) the local education authority shall determine the dates when the school terms and holidays are to begin and end; and
- (b) the temporary governing body shall determine the times of the school sessions after consultation with the authority.

(2) In the case of a proposed school which will be a foundation, voluntary aided or foundation special school, the temporary governing body shall determine—

- (a) the dates and times when the school terms and holidays are to begin and end, and
- (b) the times of the school sessions.

(3) In this regulation “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

Discipline

59. Section 61 of the 1998 Act (responsibility for discipline) applies to a proposed school as if references to the school’s governing body were references to the temporary governing body, except that section 61(3)(b) and (7) shall not apply.

Reports and information

60.—(1) The temporary governing body of a proposed school shall provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions.

(2) The head teacher of a proposed school shall provide the temporary governing body or (as the case may be) the local education authority with such reports in connection with the discharge of his functions as that body or the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions.

(3) Where a requirement under paragraph (2) is imposed on the head teacher by the authority—

- (a) the authority shall notify the temporary governing body of that requirement, and
- (b) the head teacher shall give the temporary governing body a copy of any reports made by him in complying with it.

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

Consultation on expenditure by a local education authority

61. Where the proposed school does not have a delegated budget, the local education authority shall consult the temporary governing body and the head teacher on their proposed expenditure on books, equipment and stationery for the school.