
STATUTORY INSTRUMENTS

1999 No. 2262

The Education (New Schools) (England) Regulations 1999

PART V

**TRANSITION FROM A TEMPORARY GOVERNING
BODY TO A PERMANENT GOVERNING BODY**

Modifications to the 1998 Act

32.—(1) Section 141 of, and Schedules 9 and 12 to, the 1998 Act shall apply with the following modifications to enable the instrument of government for a new school to be made.

(2) In section 141 of, and paragraph 15 of Schedule 9 to, the 1998 Act, references to the area served by a school (however expressed) shall be treated as references to the area which it appears to the local education authority will be served by the new school when it is a maintained school.

(3) In relation to a new school which will be a community special school not established in a hospital, paragraph 10 of Schedule 9 to the 1998 Act shall apply as if there were substituted for sub-paragraph (6)(a) the following—

“(a) if a voluntary organisation is designated by the local education authority, in relation to the proposed school which will be a community special school, as the appropriate voluntary organisation concerned with matters in respect of which the community special school will be specially organised, a representative governor shall be appointed by that organisation; or”.

(4) In paragraph 15(1) of Schedule 9 to the 1998 Act, the reference to “If the governing body of any maintained school so determine”, shall be treated as if it were a reference to “If the temporary governing body of any proposed school so determine”.

(5) Paragraph 1 of Schedule 12 to the 1998 Act shall have effect as if—

(a) in sub-paragraph (1)(h) there were substituted for “the date”, the words “in accordance with paragraph (2A), the dates”;

(b) after sub-paragraph (2) there were inserted the following sub-paragraph—

“(2A) Where an instrument of government is made for a proposed school, such instrument of government:

(a) shall determine the constitution of the governing body and other matters relating to the proposed school as a maintained school of the category to which it will belong when it opens;

(b) shall include a description of the ethos of the school, if the proposed school will be a foundation or voluntary school having a religious character⁽¹⁾;

(c) shall take effect from the date of making for the purpose of constituting the governing body under the instrument of government but shall not affect the

(1) Regulation 9 of *S.I. 1998/2535* makes provision for the religious character of 13 proposed schools to be designated under section 69(3) of the 1998 Act. Regulation 9 is amended by Part VIII.

constitution or name of the temporary governing body conducting the proposed school or school pending constitution of the permanent governing body under the instrument of government; and

(d) for all other purposes, shall take effect from the school opening date.”; and

(c) for sub-paragraph (3), there were substituted the following sub-paragraph—

“(3) Where, for the purposes of any provision of Part II of Schedule 9, it is material to determine the number of registered pupils at a proposed school referred to in sub-paragraph (2A), the proposed school shall be treated as having as registered pupils the number of pupils determined from the proposals for the establishment of the school.”.

(6) References in paragraph 3 of Schedule 12 to the 1998 Act to—

- (a) “the governing body” shall be treated as references to the temporary governing body;
- (b) “foundation governors” shall be treated as references to temporary foundation governors (within the meaning of Part III of these Regulations, or, in the case of a proposed school to which regulation 13 of the School Organisation Regulations applies, governors who were appointed as temporary foundation governors under the 1996 Act);
- (c) “the school” shall be treated as references to the new school;
- (d) “Church of England” and “Roman Catholic” school shall be treated as references to new schools which will be such schools when they open;
- (e) “the appropriate diocesan authority” shall be treated as references to the authority which will be the appropriate diocesan authority when the new school opens; and
- (f) “the category of school to which the school belongs” shall be treated as references to the category of school to which the new school will belong when it opens.