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STATUTORY INSTRUMENTS

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**1999 No. 2262**

**The Education (New Schools) (England) Regulations 1999**

**PART VII**

**GENERAL CONDUCT OF NEW SCHOOLS**

**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;
- (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)(1) 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.”

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(1) 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.