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STATUTORY INSTRUMENTS

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**2003 No. 1963**

**School Staffing (England) Regulations 2003**

**PART 3**

Provisions relating to foundation, voluntary aided and foundation special schools

**Interpretation of Part 3**

**19.** This Part applies to foundation, voluntary aided and foundation special schools<sup>(1)</sup>.

**Manner of appointment**

**20.**—(1) Where the governing body has selected a person for appointment he may be appointed either—

- (a) under a contract of employment, or
- (b) otherwise than under a contract of employment.

(2) Any person so appointed must meet all relevant staff qualification requirements.

**Authority's entitlement to offer advice**

**21.**—(1) The authority is entitled to advise the governing body in relation to the exercise of any of the governing body's functions of appointment, engagement and dismissal of any teacher, to the extent provided by, and subject to, any relevant agreement.

(2) A "relevant agreement" is an agreement in writing between the authority and the governing body which gives the authority an entitlement to advise the governing body in relation to the exercise of some or all of those functions, and which has not been terminated by notice in writing given by the governing body to the authority.

(3) In the absence of a relevant agreement, it is for the Secretary of State to determine the extent to which the authority is entitled to advise the governing body in relation to the exercise of any of those functions.

(4) The governing body, or any other person to whom the functions in question have been delegated, must consider any advice given by the authority pursuant to an entitlement under paragraphs (1) to (3).

(5) The Secretary of State may at any time withdraw a determination.

**Appointment of head teacher and deputy head teacher**

**22.**—(1) The governing body must notify the authority of—

- (a) any vacancy for the head teacher, and

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(1) But only such schools with delegated budgets as defined by section 39(2) of the 2002 Act in accordance with section 36(7) of the 2002 Act.

- (b) where it identifies a post of deputy head teacher as one to be filled, that post.
- (2) The governing body must advertise any such vacancy or post in such manner as it considers appropriate.
- (3) The governing body must appoint a selection panel consisting of at least three of its members, to—
  - (a) select for interview such applicants for the post as they think fit and, where the post is that of head teacher, notify the authority in writing of the names of the applicants so selected,
  - (b) interview such of those applicants as attend for the purpose, and
  - (c) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them.
- (4) If within a period of seven days beginning with the date when it receives notification under paragraph (3)(a), the authority makes written representations to the selection panel that any of the applicants is not a suitable person for the appointment, the selection panel must—
  - (a) consider those representations, and
  - (b) where they decide to recommend for appointment the person about whom the representations have been made, notify the authority in writing of their reasons.
- (5) Subject to regulation 20(2), the governing body may appoint the person recommended by the selection panel to the vacancy or the post to be filled.
- (6) If—
  - (a) the selection panel do not recommend a person to the governing body, or
  - (b) the governing body declines to appoint the person selected by the selection panel,the selection panel may select another person for appointment in accordance with this regulation (but this does not prevent the selection of an existing applicant).
- (7) Subject to regulation 20(2), if the governing body has good reason not to advertise and conduct a selection process to fill the vacancy or post in accordance with paragraphs (2) to (4), the governing body may appoint such other person it has identified to the vacancy or post to be filled.
- (8) Paragraphs (2) to (7) are subject to regulation 27.

### **Appointment of other teachers**

**23.** Where the governing body identifies any post of teacher (other than head teacher or deputy head teacher) which is to be filled for a period of more than four months, it must send a specification for the post to the authority.

### **Appointment of support staff**

**24.** Any appointment of support staff must be made by the governing body unless the governing body and the authority agree that the appointment should be made by the authority.

### **Suspension of staff**

**25.—(1)** Both the governing body and the head teacher have power to suspend any person employed or engaged otherwise than under a contract of employment to work at the school where in the opinion of the governing body or (as the case may be) the head teacher, his suspension from the school is required.

(2) The governing body or head teacher must in exercising that power, immediately inform the head teacher or (as the case may be) the governing body.

(3) A suspension under this regulation may only be ended by the governing body.

- (4) The governing body must, on ending such a suspension, inform the head teacher.
- (5) In this regulation “suspend” means suspend without loss of emoluments.

### **Suspension and dismissal of authority staff**

**26.** In the case of staff employed, or engaged otherwise than under a contract of employment, by the authority under regulation 24, regulation 16 (in place of regulation 25) and regulation 17 apply as they apply to schools referred to in regulation 10.

### **Appointment of head teachers for schools of Roman Catholic religious orders**

**27.—**(1) This regulation applies to a voluntary aided school if the trustees under a trust deed relating to the school are also trustees of a Roman Catholic religious order (“the order”).

(2) Subject to paragraph (5), paragraphs (3) and (4) have effect in relation to the filling of a vacancy in the post of head teacher of the school, in place of regulation 22(2) to (7).

(3) The governing body must notify the Major Superior of the vacancy in writing.

(4) The governing body must—

- (a) interview such persons who are members of the order as are proposed as candidates for appointment to the post by the Major Superior, and
- (b) appoint to the post one of the persons so interviewed unless, by virtue of regulation 20(2) or otherwise, the governing body has good reason for not making any such appointment.

(5) If no appointment is made by the governing body under paragraph (4)(b), regulation 22(2) to (7), have effect in relation to the filling of the vacancy.

(6) In this regulation—

“the Major Superior” means the Major Superior of the order;

“Roman Catholic religious order” means a Roman Catholic religious institute or society of apostolic life.