

SCHEDULE 1

Regulation 7

PART I**PROVISIONS OF SECTION 28 OF, AND SCHEDULE 6 TO THE ACT HAVING EFFECT IN RELATION TO PROPOSALS MENTIONED IN REGULATION 6**

1. The subsections of section 28 of, and the paragraphs in Part II of Schedule 6 to, the Act referred to in column 1 of Tables 1 to 3 below shall have effect in relation to proposals such as are mentioned in regulation 6 with the modifications specified in this Schedule in relation to those provisions⁽¹⁾.

2. The provisions of the Act specified in column 1 of Table 1 below shall have effect as if for the words referred to in column 2 of that table (wherever they occur) there were substituted the words in column 3 of that table.

Tabl/Table 1

Colofn/column 1	Colofn/column 2	Colofn/column 3
Adran/section 28(5)	“under this section”	“under paragraph 2 or 3 of Schedule 8”
Adran/section 28(5)	“the relevant body or promoters”	“the relevant body”
Atodlen/Schedule 6 paragraff/ paragraph 6	“section 28, 29 or 31”	“paragraph 2 or 3 of Schedule 8”
Atodlen/Schedule 6 paragraff/ paragraph 7(1)	“section 28, 29 or 31”	“paragraph 2 or 3 of Schedule 8”
Atodlen/Schedule 6 paragraff/ paragraph 8(2)	“such persons or bodies as may be prescribed”	“the local education authority and the governing body”

3. The provisions of the Act specified in column 1 of Table 2 below shall have effect as if the words or the provision referred to in column 2 of that table were omitted.

Tabl/Table 2

Colofn/column 1	Colofn/column 2
Atodlen/Schedule 6 Paragraff/paragraph 6	“or proposed school”
Atodlen/Schedule 6 Paragraff/paragraph 7	is-baragraff/sub-paragraph (2)
Atodlen/Schedule 6 Paragraff/paragraph 8(4)	“or (in the case of a new school) is proposed to be”
Atodlen/Schedule 6 Paragraff/paragraph 10	is-baragraff/sub-paragraph (4)

4. The provisions of the Act referred to in column 1 of Table 3 below shall have effect as if there were substituted for that provision the provision or provisions referred to in column 2 of that table.

(1) The relevant text is set out as so modified in Part II of Schedule 1.

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Tabl/Table 3

Colofn/column 1	colofn/column 2
Adran/section 28(3)	<p>“(3) Proposals under paragraph 2 or 3 of Schedule 8 shall—</p> <ul style="list-style-type: none"> (a) contain the following information— <ul style="list-style-type: none"> (i) the name of the relevant body publishing the proposals, (ii) the date on which it is proposed that the change of category should take place, (iii) a statement explaining the effect of paragraph 7 of Schedule 6 including the date by which objections should be sent to the National Assembly for Wales, (iv) a statement that it is proposed to change the category of the school stating the current category and the proposed new category, (v) the rationale of the proposal, (vi) a statement identifying the admission authority for the school after the change of category has taken place and drawing attention to any proposed change in that admission authority, (vii) if the new category of school is a voluntary school, a statement that it is proposed that the school will— <ul style="list-style-type: none"> (a) have (or continue to have) a foundation established otherwise than under this Act, or (b) belong (or continue to belong) to a group of schools for which a foundation body acts, as the case may be, (viii) if the new category of school is a foundation school, a statement that the school will — <ul style="list-style-type: none"> (a) have (or continue to have) a foundation established otherwise than under this Act, or

Colofn/column 1	colofn/column 2
	<ul style="list-style-type: none"><li data-bbox="868 383 1289 472">(b) belong (or continue to belong) to a group of schools for which a foundation body acts, or<li data-bbox="868 488 1299 551">(c) be a foundation school not falling within either of sub-paragraphs<ul style="list-style-type: none"><li data-bbox="916 562 1166 593">(viii) (a) or (b) above;<li data-bbox="932 607 1321 792">(ix) if the new category of school is a foundation special school, a statement that it is proposed that the school will have a foundation established otherwise than under this Act;<li data-bbox="940 808 1331 1025">(x) if it is proposed that the school will have (or continue to have) a foundation other than by belonging to a group of schools for which a foundation body acts, the identity of that foundation;<li data-bbox="932 1041 1334 1391">(xi) if it is proposed that the school will belong (or continue to belong) to a group of schools for which a foundation body acts or will act, the identity of that body and the identity of the other schools in the group for which the foundation body performs or will perform the functions set out in section 21(4); and<li data-bbox="927 1406 1342 1592">(xii) if at the time the proposal is published section 15 applies to the school, a statement that that section applies by virtue of subsection (1), (4) or (6) of that section, as the case may be; and<li data-bbox="868 1608 1086 1639">(b) be published—<ul style="list-style-type: none"><li data-bbox="948 1650 1315 1740">(i) by being posted in a conspicuous place in the area served by the school;<li data-bbox="940 1756 1342 1845">(ii) in at least one newspaper circulating in the area served by the school; and<li data-bbox="932 1861 1326 1982">(iii) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.”

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Colofn/column 1	colofn/column 2
Adran/section 28(7)	<p>“(7) Where any proposals are published under paragraph 2 or 3 of Schedule 8, the relevant body shall send to the National Assembly for Wales—</p> <ul style="list-style-type: none"> (a) a copy of the published proposals; (b) evidence of consultation before the proposals were published including— <ul style="list-style-type: none"> (i) copies of the consultation documents, and (ii) the views and responses from the persons consulted; (c) a map showing the location of the school and all other maintained schools within a radius of 3.218688 kilometres (2 miles), where the school is a primary school or 4.828032 kilometres (3 miles) where the school is a secondary school; (d) the following information relating to the school for the school year in which the proposals were published and (except for the information specified in sub-paragraph (i)), the previous school year— <ul style="list-style-type: none"> (i) the lower and upper age limits of the pupils attending the school, (ii) the capacity of the school or in the case of a special school the number of pupils for whom the school is organised to make provision, and (iii) the number of pupils at the school, and a forecast of the matters specified in sub-paragraphs (ii) and (iii) for each of the subsequent five years; (e) a list of all the maintained schools within the radius of the school mentioned in paragraph (c) above stating which schools are maintained by different local education authorities together with the information referred to in paragraph (d) in respect of each such school; (f) in the case of a special school—

Colofn/column 1	colofn/column 2
	<ul style="list-style-type: none">(i) details of the special educational needs of pupils for whom the school is organised to make provision,(ii) details of the information referred to in sub-paragraph (i) in respect of each community special or foundation special school within the radius of the school mentioned in paragraph (c), and(iii) details of all local education authorities which maintain statements of special educational needs for pupils at the school; <p>(g) a breakdown of any costs involved in the change of category;</p> <p>(h) information about whether the school is a day or boarding school or a school taking both day and boarding pupils;</p> <p>(i) a statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996(2)(b) during the period starting three years before the date of the publication of the proposals and, where the school has been inspected during that period, the date of the inspection and details of the outcome of the inspection;</p> <p>(j) if the school is a voluntary or foundation school with a religious character, a statement as to whether the school has been inspected under section 23 of the School Inspections Act 1996 during the period starting three years before the date of publication of the proposals and, where the school has been so inspected during that period, the date of the inspection and details of the outcome of the inspection;</p> <p>(k) if the proposal is that a school should become a voluntary aided school—</p>

(2) 1996 c. 57. Subsection (3) of section 10 is amended and subsections (4A) and (4B) inserted by paragraph 6 of Schedule 6 to the Education Act 1997 (c. 44) and the section is further amended by paragraph 191 of Schedule 30 to the Act.

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Colofn/column 1	colofn/column 2
	<ul style="list-style-type: none"><li data-bbox="948 383 1331 568">(i) an estimate of the probable expenses of the school for the five years commencing on the implementation date for which the governing body will be liable under Schedule 3; and<li data-bbox="948 584 1331 931">(ii) a statement that the governing body for a period of at least five years commencing on the implementation date will be willing and able to carry out their obligations under Schedule 3 (upon the assumption that they will receive a grant under paragraph 5 of Schedule 3 of 85 per cent of qualifying expenditure);<li data-bbox="874 947 1342 1167">(l) details of the exercise in relation to the school of any power granted to the local education authority or to the National Assembly for Wales under Chapter IV of Part I during the period starting three years before the date of the publication of the proposals;<li data-bbox="863 1182 1342 1435">(m) details of the exercise, in relation to the governing body, of any power granted to the local education authority or to the National Assembly for Wales under Schedule 15, during the period starting three years before the date of publication of the proposals;<li data-bbox="868 1451 1342 1570">(n) details of the tenure (freehold or leasehold) on which the site of the school is held and, if the premises are held on a lease, details of the lease;<li data-bbox="868 1585 1294 1682">(o) details of any trusts on which the school premises are held or it is proposed will be held;<li data-bbox="868 1697 1310 1910">(p) particulars of the body or authority to whom, on the date on which it is proposed that the school should change category, it is proposed that land or other property should be transferred in accordance with regulations.”

Adran/Section 28(8)

“(8) Schedule 6 has effect in relation to the procedure for dealing with proposals under paragraph 2 or 3 of Schedule 8.”

Colofn/column 1	colofn/column 2
Adran/Section 28(10)	“(10) In this section ‘the relevant body’ means, in the case of proposals published by a local education authority, the authority, or, in the case of proposals published by a governing body, the governing body.”
Adran/Section 28(11)	“(11) In this Part ‘area’ (without more) means a local education authority area.”
Atodlen/Schedule 6 paragraff/paragraph 7(3)	“(3) Any objections under this paragraph shall be sent to the National Assembly for Wales— <ul style="list-style-type: none">(a) within two months after the date of publication of the proposals, except where paragraph (b) of this sub paragraph applies; and(b) within one month after the date of publication of the proposals, where the proposals are in respect of a school to which section 15 applies.”
Atodlen/Schedule 6 paragraff/paragraph 8(1)	“(1) Proposals published under paragraph 2 or 3 of Schedule 8 require approval under this paragraph.”
Atodlen/Schedule 6 paragraff/paragraph 8(3)	“(3) Any approval given under this paragraph may be expressed to take effect only if— <ul style="list-style-type: none">(a) a scheme relating to any charity connected with the school is made by a date specified in the approval,(b) the National Assembly for Wales gives notice under regulation 6(1) of the Education (Foundation Body) (Wales) Regulations 2001(3) (that a foundation body shall become operative and that a school shall form part of a group for which the foundation body shall act) by a date specified in the approval,(c) the National Assembly for Wales makes a declaration under regulation 21(3) of those Regulations (that the school shall form part of a group for which a foundation body acts) by a date specified in the approval,(d) the National Assembly for Wales makes a declaration under regulation 22(1) of those Regulations

(3) O.S. 2001/2709 (W.228).

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Atodlen/Schedule 6 paragraff/paragraph 8(5)	<p>(that the school shall leave a group for which a foundation body acts) by a date specified in the approval.”.</p> <p>“(5) Sub-paragraph (1) does not prevent the governing body or local education authority by whom any proposals have been published under paragraph 2 of Schedule 8 from withdrawing such proposals by notice in writing given to the National Assembly for Wales at any time before the proposals are approved under this paragraph.</p> <p>(6) Sub-paragraph (1) does not prevent the governing body by whom proposals have been published under paragraph 3 of Schedule 8 from withdrawing such proposals with the consent (in writing) of the National Assembly for Wales at any time before the proposals are approved under this paragraph.”</p>
Atodlen/Schedule 6 paragraff/paragraph 10(1)	<p>“(1) Where any proposals published under paragraph 2 or 3 of Schedule 8 have been approved under paragraph 8 then (subject to the following provisions of this paragraph) the proposals shall be implemented in the form in which they were so approved in accordance with regulations made under paragraph 5 of Schedule 8.”</p>
Atodlen/Schedule 6 paragraff/paragraph 10(2)	<p>“(2) In the case of proposals published by the governing body at the request of the governing body or in the case of proposals published by the local education authority at the request of the local education authority, the National Assembly for Wales—</p> <ul style="list-style-type: none"> (a) may modify the proposals after consulting— <ul style="list-style-type: none"> (i) in the case of proposals published by the local education authority, the governing body, (ii) in the case of proposals published by the governing body, the local education authority; and (b) where any approval under paragraph 8 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.”

PART II

PROVISIONS OF SECTION 28 OF, AND PART II OF SCHEDULE 6 TO, THE ACT APPLIED BY PART I OF THIS SCHEDULE AS MODIFIED

SECTION 28

- (3) Proposals under paragraph 2 or 3 of Schedule 8 shall—
- (a) contain the following information—
 - (i) the name of the relevant body publishing the proposals,
 - (ii) the date on which it is proposed that the change of category should take place,
 - (iii) a statement explaining the effect of paragraph 7 of Schedule 6 including the date by which objections should be sent to the National Assembly for Wales,
 - (iv) a statement that it is proposed to change the category of the school stating the current category and the proposed new category,
 - (v) the rationale of the proposal,
 - (vi) a statement identifying the admission authority for the school after the change of category has taken place and drawing attention to any proposed change in that admission authority,
 - (vii) if the new category of school is a voluntary school, a statement that it is proposed that the school will—
 - (a) have (or continue to have) a foundation established otherwise than under this Act, or
 - (b) belong (or continue to belong) to a group of schools for which a foundation body acts, as the case may be,
 - (viii) if the new category of school is a foundation school, a statement that the school will—
 - (a) have (or continue to have) a foundation established otherwise than under this Act, or
 - (b) belong (or continue to belong) to a group of schools for which a foundation body acts, or
 - (c) be a foundation school not falling within either of sub-paragraphs (viii) (a) or (b) above;
 - (ix) if the new category of school is a foundation special school, a statement that it is proposed that the school will have a foundation established otherwise than under this Act;
 - (x) if it is proposed that the school will have (or continue to have) a foundation other than by belonging to a group of schools for which a foundation body acts, the identity of that foundation;
 - (xi) if it is proposed that the school will belong (or continue to belong) to a group of schools for which a foundation body acts or will act, the identity of that body and the identity of the other schools in the group for which the foundation body performs or will perform the functions set out in section 21(4); and
 - (xii) if at the time the proposal is published section 15 applies to the school, a statement that that section applies by virtue of subsection (1), (4) or (6) of that section, as the case may be; and
 - (b) be published—
 - (i) by being posted in a conspicuous place in the area served by the school;
 - (ii) in at least one newspaper circulating in the area served by the school; and

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(iii) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(5) Before publishing any proposals under paragraph 2 or 3 of Schedule 8, the relevant body shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the relevant body shall have regard to any guidance given from time to time by the National Assembly for Wales.

(7) Where any proposals are published under paragraph 2 or 3 of Schedule 8, the relevant body shall send to the National Assembly for Wales—

- (a) a copy of the published proposals;
- (b) evidence of consultation before the proposals were published including—
 - (i) copies of the consultation documents, and
 - (ii) the views and responses from the persons consulted;
- (c) a map showing the location of the school and all other maintained schools within a radius of 3.218688 kilometres (2 miles), where the school is a primary school or 4.828032 kilometres (3 miles) where the school is a secondary school;
- (d) the following information relating to the school for the school year in which the proposals were published and (except for the information specified in sub-paragraph (i)), the previous school year—
 - (i) the lower and upper age limits of the pupils attending the school,
 - (ii) the capacity of the school or in the case of a special school the number of pupils for whom the school is organised to make provision, and
 - (iii) the number of pupils at the school,
 and a forecast of the matters specified in sub-paragraphs (ii) and (iii) for each of the subsequent five years;
- (e) a list of all the maintained schools within the radius of the school mentioned in paragraph (c) above stating which schools are maintained by different local education authorities together with the information referred to in paragraph (d) in respect of each such school;
- (f) in the case of a special school—
 - (i) details of the special educational needs of pupils for whom the school is organised to make provision,
 - (ii) details of the information referred to in sub-paragraph (i) in respect of each community special or foundation special school within the radius of the school mentioned in paragraph (c), and
 - (iii) details of all local education authorities which maintain statements of special educational needs for pupils at the school;
- (g) a breakdown of any costs involved in the change of category;
- (h) information about whether the school is a day or boarding school or a school taking both day and boarding pupils;
- (i) a statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996 during the period starting three years before the date of the publication of the proposals and, where the school has been inspected during that period, the date of the inspection and details of the outcome of the inspection;
- (j) if the school is a voluntary or foundation school with a religious character, a statement as to whether the school has been inspected under section 23 of the School Inspections Act

1996 during the period starting three years before the date of publication of the proposals and, where the school has been so inspected during that period, the date of the inspection and details of the outcome of the inspection;

- (k) if the proposal is that a school should become a voluntary aided school—
 - (i) an estimate of the probable expenses of the school for the five years commencing on the implementation date for which the governing body will be liable under Schedule 3; and
 - (ii) a statement that the governing body for a period of at least five years commencing on the implementation date will be willing and able to carry out their obligations under Schedule 3 (upon the assumption that they will receive a grant under paragraph 5 of Schedule 3 of 85 per cent of qualifying expenditure);
 - (l) details of the exercise in relation to the school of any power granted to the local education authority or to the National Assembly for Wales under Chapter IV of Part I during the period starting three years before the date of the publication of the proposals;
 - (m) details of the exercise, in relation to the governing body, of any power granted to the local education authority or to the National Assembly for Wales under Schedule 15, during the period starting three years before the date of publication of the proposals;
 - (n) details of the tenure (freehold or leasehold) on which the site of the school is held and, if the premises are held on a lease, details of the lease;
 - (o) details of any trusts on which the school premises are held or it is proposed will be held;
 - (p) particulars of the body or authority to whom, on the date on which it is proposed that the school should change category, it is proposed that land or other property should be transferred in accordance with regulations.
- (8) Schedule 6 has effect in relation to the procedure for dealing with proposals under paragraph 2 or 3 of Schedule 8.
- (10) In this section ‘the relevant body’ means, in the case of proposals published by a local education authority, the authority, or, in the case of proposals published by a governing body, the governing body.
- (11) In this Part ‘area’ (without more) means a local education authority area.