

SCHEDULE 2

TRANSITIONAL PROVISIONS

PART II

TRANSITIONAL PROVISIONS CONSEQUENTIAL ON THE COMMENCEMENT OF CHAPTER V OF PART II

- 8.—(1) This paragraph applies in relation to any grant-maintained school where—
- (a) the governing body of the school were incorporated under Chapter IV of Part I of the 1988 Act;
 - (b) an instrument and articles of government have been made for the school under that Chapter before 1st January 1994; and
 - (c) the school was a county school immediately before it became grant-maintained.

(2) In the case of any school to which this paragraph applies, the instrument of government shall be modified by substituting the following for the definition of “first governor” in paragraph 1 (interpretation)—

““first governor” means—

- (a) in relation to any person appointed to such a governorship before 1st January 1994, a governor of the kind referred to in paragraph 3(1)(d); and
- (b) in relation to any person so appointed on or after that date—
 - (i) a person appointed by the governing body who appears to them to be committed to the good government and continuing viability of the school; or
 - (ii) a person appointed under paragraph 3A of this instrument who appears to the person appointing him to be committed to the good government and continuing viability of the school,

and the following provisions of this instrument shall have effect accordingly;”.

(3) In the case of any school to which this paragraph applies, the instrument of government shall be modified by inserting after paragraph 3(4) (which requires the governing body to secure that at least two of the first governors are parents of registered pupils at the school) the following sub-paragraph—

“(4A) The governing body shall secure that, in appointing any person to be a first governor on or after 1st January 1994, at least two of the first governors are (on the date or dates on which they respectively take office) members of the local community.”.

(4) In the case of any school to which this paragraph applies, the instrument of government shall be modified by inserting after paragraph 3 (composition of the governing body) the following paragraph—

“Power of Secretary of State to replace first governors

3A.—(1) The Secretary of State shall have power, where any of sub-paragraphs (2), (3) and (5) below apply, to replace all or any of the first governors.

(2) This sub-paragraph applies where the governing body have been guilty of substantial or persistent failure to comply, or secure compliance, with any requirement imposed by or under any enactment.

(3) This sub-paragraph applies where—

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- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school;
- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion;
- (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Chapter I of Part V of the Education Act 1993, he did not express the opinion in the report that special measures were not required to be taken in relation to the school; and
- (d) the Secretary of State has received a statement prepared under section 210 of the Education Act 1993 (statement of special measures to be taken by the governing body), or the period allowed under subsection (2) of that section for the preparation of such a statement has expired.

(4) Any expression used in sub-paragraph (3) above which is also used in Part V of the Education Act 1993 shall have the same meaning as in that Part.

(5) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the governing body, or any failure of the governing body to act, is prejudicial to the provision of education by the school.”.

9.—(1) This paragraph applies in relation to any grant-maintained school where—

- (a) the governing body of the school were incorporated under Chapter IV of Part I of the 1988 Act; and
- (b) an instrument and articles or government have been made for the school under that Chapter before 1st January 1994.

(2) In the case of any school to which this paragraph applies, the instrument of government shall be modified by substituting for paragraphs 2 to 4 of Appendix 3 (Appeal committees on admissions and permanent exclusions) the following paragraphs—

“2. An appeal committee shall consist of—

- (a) where all the members of the appeal committee were nominated before 1st January 1994, three, five or seven persons appointed by the governing body under paragraph 4C(1) below; or
- (b) in any other case—
 - (i) one person nominated by the governing body from among the persons who are eligible to be lay members, and
 - (ii) two, four or six other members nominated by the governing body from among persons appointed by them under paragraph 4C(1) below.

3. The governing body shall not nominate under paragraph 2(b)(i) above a person who falls within paragraph 4C(1) below.

4.—(1) In the case of an appeal committee to which paragraph 2(a) above applies, the members of the committee who are members of the governing body may not outnumber the other members by more than one.

(2) In the case of an appeal committee to which paragraph 2(b) above applies—

- (a) three members shall be nominated from among those appointed under paragraph 4C(1)(b) below, in the case of a committee consisting of seven members;
- (b) two members shall be so nominated, in the case of a committee consisting of five members; and

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- (c) one member shall be so nominated, in the case of a committee consisting of three members.

4A. Sufficient persons may be appointed by the governing body to enable two or more committees to sit at the same time.

4B. A person is eligible to be a lay member for the purposes of paragraph 2(b)(i) above if—

- (a) he is a person without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
- (b) he does not have, or has not at any time had, any connection with—
 - (i) the school, or
 - (ii) any person who is a member of, or employed by, the governing body, of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the school.

4C.—(1) Subject to sub-paragraphs (2) and (3) below, the persons appointed—

- (a) may include one or more members of the governing body, and
- (b) shall include persons who have experience in education, who are acquainted with the educational conditions in the area, or who are parents of registered pupils at a school.

(2) A person shall not be appointed in pursuance of sub-paragraph (1) above, if he is employed as a teacher or otherwise at the school.

(3) A person shall not be appointed in pursuance of sub-paragraph (1)(b) above, if he—

- (a) has ever been a member of the Governing Body, or
- (b) is a parent of a registered pupil at the School.”.

10.—(1) This paragraph applies to any grant-maintained school where—

- (a) the governing body of the school are incorporated under Chapter IV of Part I of the 1988 Act; and
- (b) the instrument and articles of government prescribed by virtue of section 56 of the Act have effect in relation to that school.

(2) In relation to any school to which this paragraph applies, Part III of Schedule 7 to the Act shall have effect with the following modifications:—

- (a) in paragraph 10(1) there shall be inserted after paragraph (d)—

“or

- (e) in the case of a governing body incorporated under Chapter IV of Part I of the 1988 Act, became a member of the governing body on the incorporation date in relation to the school (within the meaning of section 104(3) of that Act), and who—
 - (i) immediately before that date, was a parent governor (within the meaning of the Education (No.2) Act 1986) in relation to the school, or
 - (ii) was elected under section 66, or elected or nominated under section 68, of the 1988 Act to hold office as a parent governor on the governing body.”;

- (b) in paragraph 11(1) there shall be inserted after paragraph (c)—

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“or

- (d) in the case of a governing body incorporated under Chapter IV of Part I of the 1988 Act, became a member of the governing body on the incorporation date in relation to the school (within the meaning of section 104(3) of that Act), and who—
 - (i) immediately before that date, was a teacher governor (within the meaning of the Education (No.2) Act 1986) in relation to the school, or
 - (ii) was elected under section 66, or elected or nominated under section 68, of the 1988 Act to hold office as a teacher governor on the governing body.”;
- and
- (c) in paragraph 12, there shall be inserted after paragraph (c)—

“or

- (d) in the case of a governing body incorporated under Chapter IV of Part I of the 1988 Act, became a member of the governing body on the incorporation date in relation to the school (within the meaning of section 104(3) of that Act), and who was selected under section 66 or nominated under section 68 of that Act as being a person who appeared to those selecting or nominating him to be a member of the local community committed to the good government and continuing viability of the School.”.

11.—(1) This paragraph applies in relation to any grant-maintained school where—

- (a) the governing body of the school are incorporated under Chapter IV of Part I of the 1988 Act; and
- (b) the school was a voluntary school immediately before it became grant-maintained.

(2) In relation to any school to which this paragraph applies, paragraph 13 of Schedule 7 to the Act shall have effect as if it provided for “foundation governor” to mean—

- (a) a person appointed otherwise than by a local education authority for the purpose of securing, so far as is practicable, that the established character of the school at the time when it became grant-maintained is preserved and developed and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it; or
- (b) a person selected under section 66 or nominated under section 68 of the 1988 Act for the purpose referred to in paragraph (a) above.