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STATUTORY INSTRUMENTS

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**2013 No. 3110**

**The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and come into force on 28th January 2014.

(2) These Regulations apply in relation to England only.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Education and Inspections Act 2006;

“SSFA 1998” means the School Standards and Framework Act 1998(1);

“the Constitution Regulations” means the School Governance (Constitution) (England) Regulations 2012(2);

“change of category to foundation” has the meaning set out in regulation 3;

“Early Years Foundation Stage” means the learning and development requirements specified by the Secretary of State by order and the welfare requirements specified by the Secretary of State by regulations both made under section 39 of the Childcare Act 2006(3);

“foundation” has the meaning set out in section 21(3) of SSFA 1998;

“foundation body” means a body corporate established under section 21 of SSFA 1998(4);

“foundation proposals” has the meaning set out in regulation 3;

“further education institution” means an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992(5));

“grammar school” has the same meaning as in section 104(7) of SSFA 1998;

“implementation date” means the date approved or specified by the governing body, local authority or adjudicator (as the case may be) as the date on which it is intended that the change which falls to be implemented, should take place;

“lower age limit” in relation to a school means the lower age of pupils for whom education is normally provided at the school;

“mainstream school” means a maintained school which is not a special school;

“playing fields” has the meaning set out in section 77 of SSFA 1998 (control of disposals or changes in use of school playing fields);

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(1) 1998 c.31.

(2) S.I. 2012/1034.

(3) 2006 c.21.

(4) Section 21(6) was amended by paragraph 14 of Schedule 3 and Part 3 of Schedule 18 to the Education and Inspections Act 2006 (c.40).

(5) 1992 c. 13. Section 91(3) was amended by paras 1 and 13 of Sched 8 to the Apprenticeships, Skills, Children and Learning Act 2009.

- “relevant change” has the meaning set out in regulation 3;
- “representation period” means the period prescribed in these Regulations in which objections or comments in relation to the proposals must be made;
- “site” does not include playing fields but otherwise includes any site which is to form part of the premises of the school in question;
- “sixth form education” means full time secondary education suitable to the requirements of pupils over compulsory school age;
- “special educational needs” has the meaning given by section 312(1) of the Education Act 1996(6);
- “special school” has the same meaning as in section 337 of the Education Act 1996(7);
- “sponsor governor” means a person who is nominated as a sponsor governor and is appointed as such by the governing body in accordance with Schedule 5 to the School Governance (Constitution) Regulations 2007(8);
- “transferor” and “transferee” mean the transferor and transferee under any transfer to which these Regulations apply;
- “trustees of the school” means any persons (other than the governing body) holding property on trust for the purposes of the school; and
- “upper age limit” in relation to a school means the highest age of pupils for whom education is normally provided at the school.

(2) In these Regulations, any reference to sections 18, 19, 20, 21, 23 or 24 is a reference to that section of the Act.

### **Alterations to maintained schools by governing bodies: foundation proposals**

3.—(1) Foundation proposals are [proposals for] the alterations specified in paragraph (2) and are—

- (a) prescribed under section 18 as alterations that may be implemented in respect of a community, foundation, voluntary aided, voluntary controlled or special school in pursuance of proposals published by the governing body; and
- (b) in the case of a community or community special school, are designated under section 19(3) as alterations capable of being proposed by the governing body.

(2) The alterations are—

- (a) a change of category (a “change of category to foundation”)—
  - (i) from a community, voluntary aided or voluntary controlled school to a foundation school;
  - (ii) from a community special school to a foundation special school;
- (b) in relation to foundation and foundation special schools only, the acquisition of a foundation otherwise than under SSFA 1998;
- (c) in relation to foundation and foundation special schools only, where the instrument of government of the school does not provide for a majority of the governing body to be

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(6) 1996 c.56. Section 312 was amended by section 57(1) and paragraph 23 of Schedule 7 to the Education Act 1997 (c.44); section 140(1) and (3), and paragraph 71(a) and (b) of Schedule 30 to SSFA 1998; section 149 of, and paragraphs 1 and 56 of Schedule 9 to the Learning and Skills Act 2000 (c.21), and section 6(2) and paragraphs 2 and 3 of Schedule 1 to the Act.

(7) 1996 c. 56.

(8) S.I. 2007/957. These Regulations were revoked by the School Governance (Constitution) (England) Regulations 2012/1034 subject to savings and transitional provisions specified in SI 2012/1034.

foundation governors<sup>(9)</sup>, any change in the instrument of government which results in the majority of governors being foundation governors (“a relevant change”).

#### **Other alterations to maintained schools by governing bodies**

- 4.—(1) The alterations specified in paragraphs 4(a), 10 and 16(e) to (f) of Schedule 2 are—
- (a) prescribed under section 18 as alterations that may be implemented in respect of a community school, in pursuance of proposals published by the governing body of the school; and
  - (b) designated under section 19(3) as alterations capable of being proposed by that governing body.
- (2) The alterations specified in paragraphs 5, 6, 7, 9, 11, 13 and 14 of Schedule 2 are—
- (a) prescribed under section 18 as alterations that may be implemented in respect of a community special school or a foundation special school in pursuance of proposals published by the governing body of the school; and
  - (b) in the case of a community special school, designated under section 19(3) as alterations capable of being proposed by that governing body.
- (3) The alterations specified in paragraphs 3, 4, 8, 10, 11, 12(b), 12(c), 14, 15 and 16(a) to (d) of Schedule 2 are prescribed under section 18 as alterations that may be implemented in respect of a foundation or voluntary school in pursuance of proposals published by the governing body of the school.

#### **Alterations to maintained schools by local authorities**

- 5.—(1) The alterations specified in paragraphs 1, 2, 8, 11, 12, 14 and 15 of Schedule 2 are—
- (a) prescribed under section 18 as alterations that may be implemented in respect of a community school in pursuance of proposals published by the local authority; and
  - (b) designated under section 19(2) as alterations capable of being proposed by the local authority.
- (2) The alterations specified in paragraphs 5, 6, 7, 9, 11, 13 and 14 of Schedule 2 are—
- (a) prescribed under section 18 as alterations that may be implemented in respect of a community special school in pursuance of proposals published by the local authority; and
  - (b) designated under section 19(2) as alterations capable of being proposed by the local authority.
- (3) The alteration specified in paragraph 14 of Schedule 2 is—
- (a) prescribed under section 18 as an alteration that may be implemented in respect of a maintained nursery school<sup>(10)</sup> in pursuance of proposals published by the local authority; and
  - (b) designated under section 19(2) as an alteration capable of being proposed by the local authority.
- (4) The alterations specified in paragraphs 1, 4(a), 8(a) and 8(c) of Schedule 2 are prescribed under section 18 as alterations that may be implemented in respect of a foundation or voluntary school in pursuance of proposals published by the local authority<sup>(11)</sup>.

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<sup>(9)</sup> For the meaning of “foundation governor” see section 19(1A)(e) of the Education Act 2002 (c. 32).

<sup>(10)</sup> For the meaning of “maintained nursery school” see section 22(9) of the School Standards and Framework Act 1998 (c. 31).

<sup>(11)</sup> These are capable of being proposed by a local authority in accordance with section 19(2)(b).

(5) The alterations specified in paragraphs 6 and 9 of Schedule 2 are prescribed under section 18 as alterations that may be implemented in respect of a foundation special school in pursuance of proposals published by the local authority<sup>(12)</sup>.

### **Publication, determination and implementation of proposals**

6.—(1) Part 1 of Schedule 1 sets out the information to be included in, or provided in relation to, foundation proposals.

(2) Part 2 of Schedule 1 provides for the publication, determination and implementation of foundation proposals.

(3) Schedule 3 provides for the publication, determination and implementation of proposals concerning alterations falling within Schedule 2.

(4) Schedule 4 has effect in relation to provisions relating to foundation proposals and other changes of category.

(5) Schedule 5 has effect in relation to the transfer of land where a school changes category or acquires a foundation.

### **Regard to guidance**

7. Any governing body, local authority or adjudicator (where applicable) when exercising functions under these regulations must have regard to any guidance given from time to time by the Secretary of State.

### **Revocations and saving provisions**

8.—(1) The following are revoked—

- (a) the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007<sup>(13)</sup>;
- (b) regulations 17 to 25 of the School Organisation and Governance (Amendment) (England) Regulations 2007<sup>(14)</sup>;
- (c) regulation 6 of the School Organisation and Governance (Amendment) (England) Regulations 2009<sup>(15)</sup>;
- (d) regulation 23 of the Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments to Subordinate Legislation) (England) Order 2010<sup>(16)</sup>;
- (e) Regulation 18 of the Young People’s Learning Agency Abolition (Consequential Amendments to Subordinate Legislation) (England) Order 2012<sup>(17)</sup>.

(2) Notwithstanding the provisions of paragraph (1) the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 continue to apply in relation to proposals published by a local authority or by a governing body under section 19 before 28th January 2014.

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<sup>(12)</sup> These are capable of being proposed by a local authority in accordance with section 19(2)(c).

<sup>(13)</sup> [S.I. 2007/1289](#).

<sup>(14)</sup> [S.I. 2007/3464](#).

<sup>(15)</sup> [S.I. 2009/1556](#).

<sup>(16)</sup> [S.I. 2010/1941](#).

<sup>(17)</sup> [S.I. 2012/956](#).

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