

SCHEDULES

SCHEDULE 4

Article 40.

INCORPORATION OF BOARDS OF GOVERNORS

Contracts of employment

1. Where Article 40 effects a transfer of rights and liabilities under a contract of employment—
 - (a) the contract shall have effect from the date of incorporation as if originally made between the employee and the incorporated Board of Governors; and
 - (b) without prejudice to sub-paragraph (a), anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the incorporated Board of Governors,

but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions shall arise by reason only of the change of employer effected by that Article.

Dissolution of Board of Governors

- 2.—(1) A Board of Governors incorporated under Article 40 is dissolved by virtue of this paragraph—
 - (a) if the school under its management is discontinued; or
 - (b) where the school becomes a grant-maintained integrated school, when a new Board of Governors for the school is incorporated under Part VI of the 1989 Order.
- (2) Where two or more schools are grouped under the management of one Board of Governors, sub-paragraph (1) applies when, in relation to each of the schools, head (a) or (b) is satisfied.

Directions as to transfer of property, rights and liabilities of dissolved Board of Governors

3.—(1) Where it appears to the Department that a Board of Governors is to be dissolved by virtue of paragraph 2(1)(a), the Department may give such directions as it thinks fit with respect to the winding up of the Board of Governors and in particular with respect to the transfer of any property, rights or liabilities of the Board of Governors.

(2) Before giving any directions under this paragraph in relation to the Board of Governors of a school the Department shall consult—

- (a) the Board of Governors of the school,
- (b) in the case of a controlled school, the board responsible for the management of the school,
- (c) in the case of a voluntary school, the trustees and (where the school is a Catholic maintained school) the Council for Catholic Maintained Schools.

(3) Where directions under this paragraph provide for the transfer of any property, right or liability to any person or body, that property, right or liability shall, by virtue of this paragraph, vest in that person or body on such date as is specified in relation thereto in the directions.

Status: This is the original version (as it was originally made).

Division of property, rights and liabilities of Board of Governors of group of schools

- 4.—(1) This paragraph applies where—
- (a) a Board of Governors (“the existing Board of Governors”) is responsible for the management of two or more schools; and
 - (b) one of those schools ceases to be under the management of that Board of Governors and comes under the management of another Board of Governors (“the new Board of Governors”).
- (2) Where this paragraph applies, the Department may give such directions as it thinks fit with respect to the transfer of such property, rights or liabilities of the existing Board of Governors as it thinks appropriate to the new Board of Governors.
- (3) Before giving any directions under this paragraph, the Department shall consult—
- (a) the existing Board of Governors,
 - (b) the new Board of Governors,
 - (c) the board responsible for the management of the schools in question, and
 - (d) where the schools in question are maintained schools, the trustees of the schools and (where the schools are Catholic maintained schools) the Council for Catholic Maintained schools.
- (4) Where directions under this paragraph provide for the transfer of any property, right or liability to the new Board of Governors, that property, right or liability shall, by virtue of this paragraph, vest in that Board of Governors on such date as is specified in relation thereto in the directions.

Data protection

- 5.—(1) Where personal data are transferred under Article 40(3) to a Board of Governors incorporated by virtue of that Article—
- (a) any entry made in respect of the Board of Governors constituted immediately before the appointed day as a data user in the register maintained under section 4 of the Data Protection Act 1984 , or
 - (b) any application for registration as a data user made by that body under section 6 of that Act,
- shall have effect as if it were made in respect of or, as the case may be, by the Board of Governors so incorporated.
- (2) Expressions used in this paragraph and in that Act shall have the same meaning in this paragraph as in that Act.