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## SCHEDULES

### SCHEDULE 4

Section 48.

#### NEW SCHOOLS

##### *New county and voluntary schools: general*

- 1 (1) This paragraph applies to any new school other than one which will be a special school.
- (2) For the purposes of the application (in accordance with the following provisions of this Schedule) of any provisions of Chapter III of Part I of this Act and Schedule 3 to this Act in relation to such schools—
  - (a) references to a school conducted by a governing body shall be read as including references to a new school which has a temporary governing body (and other references to the governing body of a school shall be read as including references to the temporary governing body of a new school);
  - (b) references to a county or voluntary school maintained by a local education authority (or to county or voluntary schools) shall be read as including references to a new school which on implementation of the relevant proposal will be a county or voluntary school so maintained; and
  - (c) references to a voluntary school of any particular category shall be read as including references to a new school which on implementation of the relevant proposal will be a voluntary school of that category.

**Modifications etc. (not altering text)**

**C1** Sch. 4 paras. 1-3 applied (31.12.1995) by S.I. 1995/3114, reg. 2(2)

##### *Application of schemes in relation to new schools*

- 2 (1) For the purposes of that Chapter, a new school to which paragraph 1 above applies is required to be covered in any financial year by a scheme made under section 33 of this Act by a local education authority if it has a temporary governing body during the whole or any part of that year; but the provisions of that Chapter apply in the case of such a school subject to the modifications provided for below in this paragraph.
- (2) Where a school required to be covered by a scheme in any financial year is a new school during the whole or any part of that year, the provision required by section 38(3)(a) of this Act shall not apply in relation to the determination of the school's budget share for that year so far as that share falls in accordance with the scheme to be treated as referable to planned expenditure by the authority

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concerned for the purposes of the school in respect of any period falling before the implementation of the relevant proposal.

- (3) Accordingly, in the case of any school to which sub-paragraph (2) above applies—
- (a) paragraph (e) of subsection (4) of section 42 of this Act shall apply as if it referred to such part (if any) of the school's budget share for the financial year in question as falls to be determined in accordance with the provision required by section 38(3)(a);
  - (b) paragraph (f) of that subsection shall apply as if it referred to the expenditure (if any) on excepted services planned by the authority concerned for the purposes of the school in respect of any period falling within the financial year in question and after the implementation of the relevant proposal; and
  - (c) paragraph (g) of that subsection shall apply as if it referred to so much (if any) of the authority's excluded expenditure under the scheme as is appropriated by the authority for meeting expenditure for the purposes of the school in respect of any such period;

and the statement under subsection (3) of that section shall include in relation to any such school the additional particulars mentioned in sub-paragraph (4) below.

- (4) Those particulars are—
- (a) the amount of such part (if any) of the school's budget share for the financial year in question (as initially determined for the purposes of the scheme) as falls in accordance with the scheme to be treated as referable to planned expenditure such as is mentioned in sub-paragraph (2) above;
  - (b) the amount of any expenditure on excepted services planned by the authority concerned for the purposes of the school in respect of any period falling within the financial year in question and before the implementation of the relevant proposal; and
  - (c) the amount of such part (if any) of the authority's excluded expenditure under the scheme as is appropriated by the authority for meeting expenditure for the purposes of the school in respect of any such period.
- (5) Sub-paragraph (2) above shall not be taken as prejudicing the inclusion in the allocation formula under a scheme by virtue of section 38(3)(b) of this Act of provision taking into account in relation to a new school any forecast made in accordance with the scheme of the number of registered pupils it will have on implementation of the relevant proposal.
- (6) The delegation requirement under a scheme shall not apply in relation to a new school [<sup>F1</sup>which is a secondary school], other than a school to which section 40 of this Act applies, until such date as may be determined by or under the scheme.
- <sup>F2</sup>(7) In the case of a new school which is a primary school, section 39(2)(b) of this Act shall apply as if for references to a qualifying date in relation to the financial year in question which falls within that year there were substituted references to the date of implementation of the relevant proposal.]
- (8) Section 40 of this Act shall have effect, in relation to any new school to which it applies, with the omission of paragraph (a) of subsection (3).
- (9) Section 42(9) of this Act shall not apply in relation to the temporary governing body of a new school.

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- (10) Paragraph 18 of Schedule 2 to the 1986 Act (which requires the local education authority to consult the temporary governing body of a new school and the head teacher about their proposed expenditure on books, equipment and stationery) shall not apply where the new school has a delegated budget.

#### Textual Amendments

- F1 Words in Sch. 4, para. 2(6) omitted (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(3)  
F2 Sch. 4, para. 2(7) omitted (30.9.1991) by virtue of S.I. 1991/1890, reg. 2(3)

#### Modifications etc. (not altering text)

- C2 Sch. 4 para. 2(2)-(10) extended (25. 2. 1992) by S.I. 1992/164, reg. 2(4)(a)

### *New special schools*

- 3 (1) In sections 43 and 50 of this Act—
- (a) any reference—
- (i) to special schools maintained by local education authorities;
- (ii) to a special school maintained by such an authority; and
- (iii) to special schools;
- shall be read as including a reference to any new school proposed to be established by a local education authority which will be a special school and which has a temporary governing body; and
- (b) any reference to the governing body of a special school shall be read as including a reference to the temporary governing body of such a new school.
- (2) References in section 50 of this Act to a local education authority who maintain one or more special schools shall be read as including references to a local education authority who by virtue of paragraph 28 of Schedule 2 to the 1986 Act are under a duty to defray the expenses there mentioned in relation to the temporary governing body of one or more new schools such as are mentioned in sub-paragraph (1)(a) above.

#### Modifications etc. (not altering text)

- C3 Sch. 4 paras. 1-3 applied (31.12.1995) by S.I. 1995/3114, reg. 2(2)

### *Staff*

- 4 (1) Subject to the following provisions of this paragraph, section 44 or (as the case may be) section 45 of this Act shall apply to a new school which on implementation of the relevant proposal will be a school of a category to which that section applies not only at any time when (by virtue of the preceding provisions of this Schedule) it has a delegated budget but also at any time when it has a temporary governing body and either—

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- (a) the delegation requirement under the scheme will apply to the school on or before the implementation of the relevant proposal; or
  - (b) the authority propose to exercise any power under the scheme to delegate the management of the school's budget share for any financial year by making such a delegation—
    - (i) to the temporary governing body before the implementation of that proposal; or
    - (ii) to the governing body of the school on implementation of that proposal.
- (2) The provisions of sections 44 and 45 of and Schedule 3 to this Act shall apply, in the case of a new school, for the purposes only of—
- (a) the appointment of staff at the school; and
  - (b) the taking of such steps with respect to any other matters referred to in those provisions as may be appropriate in preparation for the conduct of the school following implementation of the relevant proposal.
- (3) In the case of a new school which is a proposed county, controlled [<sup>F3</sup>aided or special] school, no appointments of staff for the school shall be made by the local education authority before the constitution of a temporary governing body for the school.
- (4) None of the provisions of paragraphs 21 to 25, 26(1) and (2) and 30(2) of Schedule 2 to the 1986 Act (provisions as to appointment of staff at new schools and related information to be given to temporary governing bodies) shall have effect in relation to a new school to which section 44 of this Act for the time being applies.
- (5) Paragraphs 20 and 30(3) of that Schedule shall not have effect in relation to a new school to which section 45 of this Act for the time being applies.
- (6) Neither section 44(4) nor section 45(11) of this Act shall apply in the case of a new school; but it shall be the duty of the local education authority concerned to incorporate—
- (a) the statement mentioned in section 44(4) in the articles of government for a new school to which section 44 applies which will be a county or controlled school; and
  - (b) the statement mentioned in section 45(11) in the articles of government for a new school to which section 45 applies which will be an aided school.
- (7) Section 46(2) and (5) of this Act shall not apply in relation to a new school.
- (8) Any provision included in a scheme by virtue of section 47(3) of this Act, so far as relates to the appointment of staff at a school to which that section applies, shall apply in relation to a new school which on implementation of the relevant proposal will be a school to which that section applies.

#### Textual Amendments

**F3** Words in Sch. 4 para. 4(3) substituted (25.2.1992) by S.I. 1992/164, reg. 1(2), 4(3).

#### Modifications etc. (not altering text)

**C4** Sch. 4 para. 4(1)(6)(a) modified (1.1.1994) by S.I. 1993/3104, reg. 2(3)(b)(c)

**C5** Sch. 4 para. 4(6)(a) extended (25.2.1992) by S.I. 1992/164, reg. 2(4)(b)(i).

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*Financial delegation and statements apart from schemes*

- 5 Section 49 of this Act shall not apply in relation to a new school.
- 6 Section 50(9) of this Act shall not apply in relation to the temporary governing body of a new school.

*Supplementary*

- 7 (1) Section 51(4) of this Act shall not apply in the case of a new school.
- (2) If the articles of government of a new county or voluntary school contain any provision to which section 51(3) of this Act would apply during any period when the school had a delegated budget, they shall also include in relation to any such provision the statement required by section 51(5) of this Act.

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**Modifications etc. (not altering text)**

- C6** Sch. 4 para. 7(2) extended (25. 2. 1992) by S.I. 1992/164, reg. 2(4)(b)(ii).  
Sch. 4 para. 7(2) modified (1.1.1994) by S.I. 1993/3104, reg.2(3)(c)(ii)

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