



# Education Act 1993

## 1993 CHAPTER 35

### PART II

#### GRANT-MAINTAINED SCHOOLS

#### CHAPTER VIII

##### DISCONTINUANCE OF GRANT-MAINTAINED SCHOOLS

##### *Proposals for discontinuance*

#### **104 Proposals by governing body for discontinuance**

- (1) The governing body of a grant-maintained school may publish proposals under this section for the discontinuance of the school if they—
  - (a) decide by a resolution passed at a meeting of that body to publish such proposals, and
  - (b) confirm that decision by a resolution passed at a subsequent meeting of the governing body held not less than twenty-eight days after that at which the first resolution was passed.
- (2) Before passing such a resolution as is mentioned in subsection (1)(a) above, the governing body shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection, the governing body shall have regard to any guidance given to them from time to time by the Secretary of State.
- (3) The governing body shall, as soon as practicable after the passing of the second resolution, give notice in writing of the second resolution to the local education authority.
- (4) The governing body may, within the period of six months beginning with the date of the second resolution, publish proposals for the discontinuance of the school in such

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manner as may be prescribed and, where they do so, shall submit to the Secretary of State a copy of the published proposals.

- (5) The published proposals shall specify the proposed date of discontinuance of the school.
- (6) The published proposals shall be accompanied by a statement—
  - (a) indicating whether or not there are any proposals for the premises of the school to be used by any new or existing school, and
  - (b) explaining the effect of subsection (7) below.
- (7) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the Secretary of State by any of the following—
  - (a) if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council,
  - (b) any ten or more local government electors,
  - (c) the governing body of any school affected by the proposals, and
  - (d) any local education authority concerned.

#### **105 Proposals by funding authority for discontinuance**

- (1) This section has effect in respect of the area of a local education authority if an order under section 12(1) of this Act applies to the area.
- (2) The funding authority may publish, in such manner as may be prescribed, proposals for the discontinuance of any grant-maintained school and, where they do so, shall submit to the Secretary of State a copy of the published proposals.
- (3) The published proposals shall specify the proposed date of discontinuance of the school.
- (4) Before publishing any proposals under this section the funding authority shall consult—
  - (a) such persons as appear to them to be appropriate, and
  - (b) in the case of a Church of England, Church in Wales or Roman Catholic Church school having any foundation governor who is appointed by the appropriate diocesan authority, that authority;
 and in discharging their duty under paragraph (a) above, the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.
- (5) The published proposals shall be accompanied by a statement—
  - (a) indicating whether or not there are any proposals for the premises of the school to be used by any new or existing school, and
  - (b) explaining the effect of subsection (6) below.
- (6) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the funding authority by any of the following—
  - (a) if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992 applies, the appropriate further education funding council,

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- (b) any ten or more local government electors,
  - (c) the governing body of the school to which the proposals relate,
  - (d) the governing body of any school affected by the proposals, and
  - (e) any local education authority concerned.
- (7) Not later than one month after the end of that period, the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them.

## **106 Approval, adoption or rejection of proposals**

- (1) Proposals published under section 104 of this Act require the approval of the Secretary of State.
- (2) Proposals published under section 105 of this Act require the approval of the Secretary of State if—
- (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals, or
  - (b) objections have been made under subsection (6) of that section within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (3) Where under subsection (1) or (2) above any proposals require the approval of the Secretary of State, he may reject them, approve them without modification or, after consulting the governing body and, in the case of proposals published under section 105 of this Act, the funding authority, approve them with the substitution of a different date for the date of discontinuance proposed.
- (4) Where the Secretary of State approves any such proposals he shall give notice in writing of that fact and of the discontinuance date to the governing body and (except where the school is in Wales and the Schools Funding Council for Wales have not begun to exercise their functions) the funding authority.
- (5) Where proposals published under section 105 of this Act do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (6) The funding authority shall—
- (a) make any determination under subsection (5) above not later than four months after the publication of the proposals, and
  - (b) give notice in writing to the Secretary of State and the governing body of their determination and, if they adopt the proposals, of the discontinuance date.

## **107 Implementation of proposals**

- (1) Where any proposals are approved under section 106 of this Act, the governing body shall cease to conduct the school on the discontinuance date.
- (2) In this section, “the discontinuance date” means—
- (a) the date of discontinuance specified in the proposals as approved, or
  - (b) if—
    - (i) at the request of the governing body, or

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(ii) in the case of proposals published under section 105 of this Act, at the request of the funding authority and after consulting the governing body,

the Secretary of State subsequently fixes another date (whether in substitution for the date specified in the proposals as approved or in substitution for a date previously fixed under this subsection), that date.

(3) The governing body of a grant-maintained school shall not discontinue the school except in pursuance of proposals published under section 104 or 105 of this Act and approved or adopted under section 106 of this Act.

### **108 Power to transfer functions under preceding provisions**

(1) The Secretary of State may by order provide for this Part of this Act to have effect with the modifications in subsections (2) to (7) below in relation to any proposals published by the governing body of a grant-maintained school under section 104 of this Act after the coming into force of the order.

(2) The governing body shall submit a copy of the proposals to the funding authority as well as to the Secretary of State.

(3) Any objections under subsection (7) of that section to the proposals shall be submitted to the funding authority instead of to the Secretary of State.

(4) If any objection is made under subsection (7) of that section within the period allowed under that subsection and not withdrawn in writing within that period, then, not later than one month after the end of that period—

(a) the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them, and

(b) may themselves submit to the Secretary of State an objection to the proposals.

(5) Section 106(1) of this Act shall not apply to the proposals unless—

(a) the Secretary of State gives notice to the funding authority within two months after the submission to him of the published proposals that the proposals require his approval, or

(b) objections have been made under subsection (7) of section 104 of this Act within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).

(6) Where section 106(1) of this Act does not apply to the proposals—

(a) the proposals shall require the approval of the funding authority,

(b) the funding authority may reject them, approve them without modification or, after consulting the governing body, approve them with the substitution of a different date for the date of discontinuance proposed,

(c) where the funding authority approve them, they shall give notice in writing of that fact and of the discontinuance date to the governing body, and

(d) the reference in section 107(2)(b) of this Act to the Secretary of State shall be read as a reference to the funding authority.

(7) Paragraph 21(b) of Schedule 2 to this Act shall not apply in relation to the proposals.

(8) References in this Part of this Act to approval under section 106 of this Act include approval under this section.