

## SCHEDULES

### SCHEDULE 7

Section 34.

#### RATIONALISATION OF SCHOOL PLACES

##### PART I

###### INTRODUCTORY

- 1 In this Schedule—
- (a) “powers to make proposals for the establishment, alteration or discontinuance of schools” means all or any of the powers of the local education authority to publish proposals under section 28, 29 or 31; and
  - (b) “powers to make proposals for the alteration of their school”, in relation to the governing body of a foundation, voluntary or foundation special school, means their powers to publish proposals under section 28(2)(b) or 31(2)(a).

##### PART II

###### DIRECTIONS TO BRING FORWARD PROPOSALS

###### *Directions to bring forward proposals to remedy excessive provision*

- 2 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
- (a) in the area of any local education authority, or
  - (b) in any part of such an area,
- is excessive.
- (2) For the purpose of remedying the excess, the Secretary of State may—
- (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school.
- (3) An order under sub-paragraph (2) shall—
- (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.

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- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals are published in pursuance of an order under sub-paragraph (2) which relates to an area in England, the body concerned shall (in addition to complying with section 28(6), 29(5) or 31(5), as the case may be) send—
  - (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.

*Directions to bring forward proposals to remedy insufficient provision*

- 3 (1) This paragraph applies where the Secretary of State is of the opinion that the provision for primary or secondary education in maintained schools—
  - (a) in the area of any local education authority, or
  - (b) in any part of such an area,
 is, or is likely to become, insufficient.
- (2) The Secretary of State may—
  - (a) by an order under this paragraph direct the local education authority to exercise their powers to make proposals for the establishment, alteration or discontinuance of schools, and
  - (b) in the case of any foundation, voluntary or foundation special school maintained by the authority, by an order under this paragraph direct the governing body to exercise their powers to make proposals for the alteration of their school,
 with a view (in each case) to securing that provision is made for such additional number of pupils in the area, or in any such part of the area, as may be specified in the order.
- (3) An order under sub-paragraph (2) shall—
  - (a) require the proposals to be published not later than such date as may be specified in the order, and
  - (b) require the proposals to apply such principles in giving effect to the direction as may be specified in the order.
- (4) An order under sub-paragraph (2)(a) may not require the proposals to relate to any named school.
- (5) Where any proposals are published in pursuance of an order under sub-paragraph (2) which relates to an area in England, the body concerned shall (in addition to complying with section 28(6), 29(5) or 31(5), as the case may be) send—
  - (a) a copy of the published proposals, and
  - (b) such information in connection with those proposals as may be prescribed, to the Secretary of State.

*Supplementary provisions*

- 4 (1) Where the Secretary of State makes an order under paragraph 2(2) or 3(2) in relation to the area of any local education authority in England, he shall send a copy of the order—

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- (a) to the school organisation committee for the area, and
  - (b) to any adjudicator who appears to him to be likely to be considering proposals in relation to that area.
- (2) Where the school organisation committee or any adjudicator receive a copy of the order under sub-paragraph (1), the committee or adjudicator shall send to the Secretary of State—
- (a) a copy of all proposals relating to the area which have been received by them or him but have not been determined by the relevant time, and
  - (b) a copy of all proposals relating to the area, other than any made under paragraph 5, which they receive after the relevant time.
- (3) Where sub-paragraph (2) applies, then unless the Secretary of State gives his consent—
- (a) neither the school organisation committee nor the adjudicator shall make any determination, and
  - (b) the school organisation committee shall not make any reference to the adjudicator under paragraph 3 of Schedule 6 or paragraph 8 below,
- in relation to any proposals within sub-paragraph (2) during the period beginning with the relevant time and ending with the time when the Secretary of State notifies the committee or the adjudicator, as the case may be, that they or he may make any such determination or reference in relation to those proposals without the Secretary of State's consent.
- (4) The duty of the school organisation committee or any adjudicator to send copies of proposals to the Secretary of State under sub-paragraph (2) shall terminate at the end of the period mentioned in sub-paragraph (3).
- (5) In sub-paragraphs (2) and (3)—
- (a) references to the relevant time, in relation to the school organisation committee or to any adjudicator, are to the time when they or he receive the copy of the order under sub-paragraph (1);
  - (b) references to proposals are to proposals made under section 28, 29 or 31 or under paragraph 5; and
  - (c) references to the determination of any proposals are to—
    - (i) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6 or paragraph 8 or 9 below, or
    - (ii) any determination whether or not to implement the proposals under paragraph 4 of Schedule 6.
- (6) Where a local education authority publish any proposals in pursuance of an order under paragraph 2(2) or 3(2) which relates to an area in England, those proposals shall require approval under paragraph 3 of Schedule 6, despite anything in paragraph 3(1)(a) or 4 of that Schedule.
- (7) Proposals made in pursuance of an order under paragraph 2(2) or 3(2) (whether relating to an area in England or in Wales) may not be withdrawn without the consent of the Secretary of State and such consent may be given on such conditions (if any) as the Secretary of State considers appropriate.
- (8) Where the governing body of a foundation, voluntary or foundation special school make any proposals in pursuance of any such order under paragraph 2(2) or 3(2), the

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local education authority shall reimburse any expenditure reasonably incurred by the governing body in making the proposals.

(9) Where—

- (a) proposals made by the governing body of a foundation, voluntary or foundation special school in pursuance of any such order under paragraph 2(2) or 3(2) are approved or, as the case may be, determined to be implemented, or
- (b) proposals approved or adopted under paragraph 8, 9 or 14 have effect as mentioned in paragraph 10(b) or 15(b), as the case may be,

then, despite anything in Part III of Schedule 6, the local education authority shall defray the cost of implementing the proposals.

### PART III

#### PROPOSALS BY SECRETARY OF STATE

##### *Publication of proposals*

5 (1) Where—

- (a) the Secretary of State has, in relation to the area of any local education authority or any part of such an area, made an order under paragraph 2(2) or 3(2) directing the local education authority or the governing body of a foundation, voluntary or foundation special school to make proposals for the establishment, alteration or discontinuance of schools or (as the case may be) for the alteration of their school, and
- (b) either—
  - (i) any proposals have been published in pursuance of the order, or
  - (ii) the time allowed under the order for the publication of the proposals has expired,

he may make any such proposals as might have been made in accordance with the order relating to that area or that part of that area by the body to whom the directions were given.

(2) Proposals under this paragraph shall—

- (a) contain such information, and
- (b) be published in such manner,

as may be prescribed.

(3) Where any proposals made under this paragraph relate to an area in England, the Secretary of State shall send a copy of the proposals to the school organisation committee for the area.

(4) Where any proposals made under this paragraph relate to an area in Wales, the Secretary of State shall send a copy of the proposals—

- (a) to the local education authority for the area, and
- (b) to the governing body of each school to which the proposals relate.

## PART IV

### PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: ENGLAND

#### *Application of Part IV*

- 6 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in England.

#### *Objections*

- 7 (1) Any person may make objections to any proposals published under paragraph 5.
- (2) Objections under this paragraph—
- (a) shall be sent to the school organisation committee for the area to which those proposals relate; and
  - (b) shall be so sent within such period as may be prescribed.

#### *Approval of proposals*

- 8 (1) Proposals published under paragraph 5 require the approval of the school organisation committee under this paragraph or of the adjudicator under paragraph 9.
- (2) Where the school organisation committee receive a copy of the proposals published under paragraph 5, they must either—
- (a) approve them without modification, or
  - (b) approve them with such modifications as the committee think desirable and to which the Secretary of State consents, or
  - (c) refer them to the adjudicator under sub-paragraph (5) or (6).
- (3) Any approval given under this paragraph may, with the consent of the Secretary of State, be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (4) When deciding whether or not to give any approval under this paragraph the committee shall have regard to any guidance given from time to time by the Secretary of State.
- (5) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
  - (b) the Secretary of State requests the committee to refer his proposals to the adjudicator,
- they shall refer his proposals to the adjudicator.
- (6) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision but have failed to reach such a decision on that matter, or
  - (b) have decided not to give any approval under this paragraph,
- they shall refer the Secretary of State's proposals to the adjudicator.

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- (7) Where any proposals are referred to the adjudicator under sub-paragraph (5) or (6), the school organisation committee shall also refer to him—
- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
  - (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), and
  - (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn),
- where those proposals are not determined before the adjudicator holds an inquiry under paragraph 9(1) and appear to the committee to be related to the proposals referred by them to the adjudicator under sub-paragraph (5) or (6).
- (8) Sub-paragraph (7) applies to any proposals within that sub-paragraph whether or not the proposals have been previously referred to the adjudicator by the committee.
- (9) Sub-paragraph (1) does not prevent the Secretary of State from withdrawing any proposals published under paragraph 5 by notice in writing given to the school organisation committee at any time before the proposals are determined under this paragraph or paragraph 9.
- (10) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve the proposals under paragraph 3 of Schedule 6, sub-paragraph (2)(a) or (2)(b) above or paragraph 9(3) below, or
  - (b) any determination whether or not to implement the proposals under paragraph 4 of Schedule 6.

*Local inquiry into proposals*

- 9 (1) Where any proposals are referred to the adjudicator under paragraph 8(5) or (6), he shall hold a local inquiry to consider—
- (a) those proposals,
  - (b) any additional proposals referred to him under paragraph 8(7),
  - (c) any objections made (under paragraph 2 of Schedule 6 or paragraph 7 above) to any proposals within paragraph (a) or (b) above unless such objections have been withdrawn, and
  - (d) any views expressed by the school organisation committee on any such proposals.
- (2) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
- (3) After holding the inquiry, the adjudicator must, in the case of any proposals considered at the inquiry, either—
- (a) approve them with or without modifications, or
  - (b) reject them.
- (4) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.

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- (5) When deciding whether or not to give any approval under this paragraph, paragraph 8(4) shall apply to the adjudicator as it does to the committee.

#### *Implementation of proposals*

- 10 Proposals approved by the school organisation committee under paragraph 8 or by the adjudicator under paragraph 9 shall have effect as if they—
- (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
  - (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the school organisation committee or the adjudicator, as the case may be, under paragraph 3 of Schedule 6.

### **PART V**

#### PROCEDURE FOR DEALING WITH PROPOSALS UNDER PARAGRAPH 5: WALES

#### *Application of Part V*

- 11 This Part of this Schedule applies to proposals published under paragraph 5 which relate to an area in Wales.

#### *Objections*

- 12 (1) Any person may make objections to any proposals published under paragraph 5.
- (2) Objections under this paragraph—
- (a) shall be sent to the Secretary of State; and
  - (b) shall be so sent within such period as may be prescribed.

#### *Local inquiry into proposals*

- 13 (1) This paragraph applies where in relation to the area of any local education authority the Secretary of State has made proposals under paragraph 5 (otherwise than in pursuance of paragraph 14(1)) which he has not withdrawn.
- (2) If objections have been made under paragraph 12(1) within the period prescribed in accordance with paragraph 12(2)(b), then, unless all objections so made have been withdrawn in writing within that period, the Secretary of State shall cause a local inquiry to be held to consider his proposals, any proposals he refers to the inquiry and any such objections.
- (3) Any proposals referred to a local inquiry under this paragraph require the approval of the Secretary of State (if they would not require such approval apart from this sub-paragraph).
- (4) Where the Secretary of State has a duty to cause a local inquiry to be held under this paragraph, he shall refer to the inquiry—

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- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
- (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), and
- (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn),

where those proposals are not determined before he causes the inquiry to be held and appear to him to be related to the proposals made under paragraph 5 in respect of which he is required under this paragraph to cause the inquiry to be held.

- (5) If, before the Secretary of State causes the inquiry to be held, he forms the opinion that any proposals ought to be implemented, sub-paragraph (4) does not require him to refer those proposals to the inquiry unless—
  - (a) before the proceedings on the inquiry are concluded, or
  - (b) (if earlier) the proposals are determined,
 he subsequently forms a different opinion.
- (6) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).
- (7) References in this paragraph to the determination of any proposals are to—
  - (a) any determination whether or not to approve or adopt the proposals under paragraph 8 of Schedule 6 or paragraph 14 below, or
  - (b) any determination whether or not to implement the proposals under paragraph 9 of Schedule 6.

#### *Adoption of proposals*

- 14 (1) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is required to cause a local inquiry to be held, he may when he has considered the report of the person appointed to hold the inquiry do one or more of the following—
  - (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by him under that paragraph which he referred to the inquiry;
  - (b) approve, with or without modifications, or reject any other proposals which he referred to the inquiry; and
  - (c) make any such further proposals under paragraph 5 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the body to whom the directions were given.
- (2) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is not required to cause a local inquiry to be held and which he is not required to refer to such an inquiry, he may, after considering any objections made under paragraph 12(1) (and not withdrawn) within the period prescribed in accordance with paragraph 12(2)(b)—
  - (a) adopt the proposals with or without modifications; or
  - (b) determine not to adopt the proposals.



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- (3) Any adoption of proposals under this paragraph may be expressed to take effect only if an event specified in the adoption occurs by a date so specified.

*Implementation of proposals*

- 15 Proposals adopted by the Secretary of State under paragraph 14 shall have effect as if they—
- (a) had been made by the local education authority under their powers to make proposals for the establishment, alteration or discontinuance of schools, or
  - (b) in any case where the proposals are for the alteration of a foundation, voluntary or foundation special school, had been made by the governing body under their powers to make proposals for the alteration of their school, and had been approved by the Secretary of State under paragraph 8 of Schedule 6.

**PART VI**

TRANSITIONAL EXEMPTION ORDERS FOR PURPOSES OF SEX DISCRIMINATION ACT 1975

*Single-sex schools: England*

- 16 (1) This paragraph applies to proposals for a school in England to cease to be an establishment which admits pupils of one sex only.
- (2) Sub-paragraph (3) applies where such proposals are made under paragraph 5 of this Schedule and, in accordance with sub-paragraph (3) of that paragraph, the Secretary of State sends a copy of the published proposals to the school organisation committee.
- (3) The sending of the published proposals to the school organisation committee by the Secretary of State shall be treated as an application by the responsible body for the making by the school organisation committee of a transitional exemption order, and the committee may make such an order accordingly.
- (4) Where—
- (a) the school organisation committee have failed to reach a unanimous decision under sub-paragraph (3) above on whether to make a transitional exemption order, or
  - (b) the school organisation committee refer the proposals to the adjudicator under paragraph 8 of this Schedule,
- they shall refer the question whether to make a transitional exemption order to the adjudicator.
- (5) Where that question is referred to the adjudicator—
- (a) he shall consider the matter afresh; and
  - (b) he may make a transitional exemption order accordingly.
- (6) In this paragraph and in paragraph 17—
- “the 1975 Act” means the Sex Discrimination Act 1975,
  - “make”, in relation to a transitional exemption order, includes (so far as the context permits) vary or revoke,
  - “the responsible body” has the same meaning as in section 22 of the 1975 Act, and

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“transitional exemption order” has the same meaning as in section 27 of the 1975 Act,

and references to proposals for a school to cease to be an establishment which admits pupils of one sex only are references to proposals which are or include proposals for such an alteration in a school’s admissions arrangements as is mentioned in section 27(1) of the 1975 Act (single-sex establishments becoming co-educational).

*Single-sex schools: Wales*

- 17 (1) This paragraph applies to proposals for a school in Wales to cease to be an establishment which admits pupils of one sex only.
- (2) Where such proposals are made under paragraph 5 of this Schedule, the responsible body shall be treated as having made an application to the Secretary of State for the making of a transitional exemption order, and the Secretary of State may make such an order accordingly.