
STATUTORY INSTRUMENTS

1994 No. 653

**The Education (Grant-maintained
Special Schools) Regulations 1994**

PART 2

PROCEDURE FOR BECOMING A GRANT-MAINTAINED SPECIAL SCHOOL

Special schools eligible to become grant-maintained special schools

3.—(1) Subject to paragraph (2) below, any maintained special school (including a hospital special school) is eligible to become a grant-maintained special school.

(2) A maintained special school is not eligible to become a grant-maintained special school if—

- (a) the local education authority have served notice of proposals to cease to maintain the school under section 14(2) of the Education Act 1981(1) or section 183(2) of the 1993 Act and those proposals have been approved by the Secretary of State with or without modifications; or
- (b) the school does not have a delegated budget.

(3) For the purpose of this regulation a school has a delegated budget if the local education authority have for the time being delegated to its governing body the management of the school's budget share for any financial year in pursuance of a scheme made by the authority under section 33 of the Education Reform Act 1988(2), pursuant to regulations under section 43 of that Act.

Becoming a grant-maintained special school: duty of governing body and initiation of procedure

4.—(1) section 24 of the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as it applies to other schools which are eligible for grant-maintained status, subject to the modification that for subsection (1) of that section there shall be substituted—

“(1) This section applies, with effect from 1st September 1994, to all maintained special schools in England which are eligible to become grant-maintained special schools.”

(2) In the case of a hospital special school section 24 of the 1993 Act shall apply with the following further modifications—

- (a) In subsections (2) and (4)(b), the words “whether to hold a ballot of parents on the question of” shall be omitted.
- (b) Subsection (3) shall be omitted.
- (c) In subsection (4)(a), for the words “to hold a ballot of parents in pursuance of subsection (2) above” there shall be substituted “application should be made for the school to become a

(1) 1981 c. 60.

(2) 1988 c. 40. The current regulations are the Education (Application of Financing Schemes to Special Schools) Regulations 1993, SI 1993/3104.

grant-maintained special school”; and for the words “not to hold a ballot” there shall be substituted the words “not to make such an application”.

(3) Sections 25 to 31 of the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as they apply to other schools which are eligible for grant-maintained status but subject, in the case of hospital special schools, to the following modifications—

(a) Where the governing body of a hospital special school which is eligible to become a grant-maintained special school decide by a resolution passed at a meeting of that body to apply for the school to become a grant-maintained special school, they shall give notice in writing of their decision to the local education authority; and subsection (2) of section 25 shall apply to that notice as it applies to notice under section 25(1)(b).

(b) Sections 26 to 31 of the 1993 Act shall not apply.

(4) Section 25 of the 1993 Act shall apply in relation to a maintained special school eligible to become a grant-maintained special school as if there were added at the end of that section the following subsection—

“(4) A meeting of the governing body of a maintained special school shall not consider whether a ballot of parents should be held on the question of whether the school should seek to become a grant-maintained special school or, where the school is established in a hospital, whether an application should be made for the school to become such a school, unless consideration of that question is a specific item of business on the agenda for the meeting, of which at least seven clear days notice shall have been given; and any such question shall only be determined by way of a vote involving the marking in secret of a voting paper by each member present and voting.”

Publication of Proposals

5. Section 32 of and Part I of Schedule 3 to the 1993 Act shall apply in relation to maintained special schools eligible to become grant-maintained special schools as they apply to other schools which are eligible for grant-maintained status, subject to the modifications made by regulation 2(2) and to the following modifications—

(1) For Section 32(1), in its application to hospital special schools, there shall be substituted—

“Subsection (2) below applies where the governing body have passed a resolution in favour of applying for the school to become a grant-maintained special school”.

(2) In section 32(2), in its application to hospital special schools, for the words “the date on which the result of the ballot is determined”, there shall be substituted “the date on which the resolution is passed”; and for the words “for acquisition of grant-maintained status for the school” there shall be substituted the words “for the school to become a grant-maintained special school”.

(3) In Schedule 3:—

(a) For sub-paragraphs 1(1)(a) and (b) in their application to hospital special schools, there shall be substituted—

“(a) posted in at least one conspicuous place—

(i) within the hospital and

(ii) within the area served by the school, and”.

(b) In sub-paragraph 1(2), for the words “of publication of the proposals” there shall be substituted “on which all the requirements of paragraph 1(1) have been satisfied”.

(c) In sub-paragraph 1(3)(a), for the words “acquisition of grant-maintained status” there shall be substituted the words “the school to become a grant-maintained special school”.

- (d) In sub-paragraph 1(3)(d), for the words “Part II” there shall be substituted the words “section 186(3)”.
- (e) Sub-paragraph 1(3)(e) shall be omitted.
- (f) Sub-paragraph 2(1)(a) shall not apply in relation to hospital special schools.
- (g) Sub-paragraphs 2(1)(b) 2(2) shall be omitted; and for sub-paragraph 2(1)(e) there shall be substituted—
 - “(e) describe the type of special educational provision which is currently made in the school”.
- (h) In paragraph 3—
 - (i) In item (a), for the words “Part II of” there shall be substituted the words “Schedule 11 to”.
 - (ii) In items (a) and (b), for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”.
 - (iii) For item (c) there shall be substituted
 - “(c) explain the circumstances in which a person named in the proposals as a proposed initial governor may be replaced,”.
 - (iv) Item (g) shall be omitted.
- (i) In paragraph 4—
 - (i) In sub-paragraph (1)(a), the words after “of that person” shall be omitted.
 - (ii) In sub-paragraph (1)(b) the words “or as the case may be, foundation” shall be omitted and for “(in accordance with sections 60 to 65 of this Act)” there shall be substituted “(in accordance with Schedule 11 to this Act)”.
 - (iii) In sub-paragraph (1)(d) the words “or regulations made by virtue of section 77 of this Act” shall be omitted.
 - (iv) Sub-paragraph (1)(e) shall be omitted.
 - (v) In sub-paragraph (2) for the words “grant-maintained school” there shall be substituted the words “grant-maintained special school”; and at the end of sub-paragraph (a) there shall be inserted the words “explaining that admission will normally be reserved for children for whom statements are maintained under section 168 of this Act(3)”.
- (j) In paragraph 5, for the words “the date of publication of any proposals under section 32 of this Act” there shall be substituted “the date on which all the requirements of paragraph 1(1) above for the publication of proposals under section 32 of this Act have been satisfied”; and in item (a) the words “for the area” shall be omitted.

Approval, modification and implementation of proposals and incorporation of governing body

6.—(1) Sections 33 and 34 of the 1993 Act shall apply to proposals published under section 32 of that Act as applied by these regulations as they apply to proposals published under section 32, subject to the modifications made by regulation 2(2) and by paragraphs (3) and (4) below.

(2) Section 184(5) of the 1993 Act shall apply in relation to proposals approved under section 33 as so applied as it does in relation to proposals required to be implemented under section 183 of that Act so as to enable the Secretary of State to modify such proposals at the request of the new governing body.

(3) Section 168 is not in force at the date of the making of these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) In its application to hospital special schools the modification in section 33(4)(a) shall have effect in relation to the period of four months beginning with the date on which the governing body's resolution is passed.

(4) In section 34(3), for the words "as a county or voluntary school" in sub-paragraph (a) there shall be substituted "as a special school" and sub-paragraph (b) shall be omitted.

Exercise of power proposed date of implementation

7.—(1) Section 35 of and Schedule 4 to the 1993 Act shall apply where proposals are approved under section 33 of that Act as applied by these regulations as they apply where proposals are approved under section 33, subject to the following modifications.

(2) Paragraph 2(b) of Schedule 4 shall apply in relation to hospital special schools with the substitution of the words "property other than land" for the words "land and other property".

(3) In paragraph 5(1) of Schedule 4 for the words "transition to grant-maintained status" there shall be substituted the words "becoming a grant-maintained special school".

Expenses in connection with proposals to become a grant-maintained special school

8. Section 36 of the 1993 Act shall apply in relation to the exercise by a governing body of their functions under Chapter II of Part II of the 1993 Act as applied by these regulations.