
STATUTORY INSTRUMENTS

1998 No. 1969

The Education (Allocation of Grant-maintained and Grant-maintained Special Schools to New Categories) Regulations 1998

PART IV

TRANSITIONAL PROVISIONS

18. The provisions of Schedule 2 to the Act shall not apply in the case of any grant-maintained or grant-maintained special school, as the case may be, where—

- (a) proposals under section 267 or 268 of the Education Act 1996 have been published in respect of the discontinuance of a grant-maintained school and have been approved, or adopted, as the case may be, under section 269 of that Act and the date of discontinuance with respect to the school is on or before 1st September 1999;
- (b) the Secretary of State has given notice under section 272 of that Act to the governing body of a grant-maintained school or, under that section as applied to grant-maintained special schools by the 1994 Regulations, to the governing body of a grant-maintained special school, indicating that the funding authority's duty to maintain the school will cease on a specified date which is on or before 31st March 1999; or
- (c) notice of proposals under section 339 of the Education Act 1996 has been served in respect of the discontinuance of a grant-maintained special school and the proposals have been approved under section 340 of that Act or, as the case may be, adopted pursuant to provisions of section 269 of that Act as applied to those proposals by virtue of the 1994 Regulations and the date of discontinuance with respect to the school is on or before 1st September 1999.

19.—(1) Paragraph (2) applies in any case where—

- (a) proposals under sections 211(3) or 212(1) of the Education Act 1996 have been published for the establishment of a new grant-maintained school and approved or, as the case may be, adopted under section 214 of that Act and there is in existence a governing body of the school incorporated pursuant to section 215 of that Act; or
- (b) notice of proposals under section 339(2)(a) of that Act to establish a new grant-maintained special school has been served and the proposals have been approved under section 340 of that Act and there is in existence a governing body of the school incorporated pursuant to section 339(7) of that Act; and

the school opening date in respect of the school falls on or after 30th September 1998.

(2) Where this paragraph applies, the provisions of paragraphs 4 to 7 of Schedule 2 to the Act shall not apply, but the provisions made by paragraphs (3) to (7) and regulations 20 to 22 shall, in any such case, apply instead.

(3) The governing body of such a school as is referred to in paragraph (1) must take on or before 26th February 1999 a decision (their "decision") on the question whether—

- (a) to accept the school's allocation to a particular category of schools in accordance with the indicative allocation set out in paragraph 3 of Schedule 2 to the Act, or
- (b) to opt for it to be allocated to a different category.

(4) The chairman of the governing body shall direct the clerk to the governing body as to the date for the meeting at which the governing body are to take their decision and the clerk shall, when convening that meeting, comply with such direction.

(5) Without prejudice to their obligation under paragraph (3), the governing body may not take their decision at any meeting unless the clerk to the governing body, has given to—

- (a) every member of the governing body; and
- (b) any person holding land on trust for the purposes of the school

at least twenty-one clear days notice of the meeting together with a copy of the agenda for the meeting which includes the consideration of the governing body's decision referred to in paragraph (3) as a specific item of business for the meeting; and the notice to the persons referred to at sub-paragraph (b) shall state that any representations in response to the notice shall be sent to the clerk to the governing body no later than seven clear days before the meeting.

(6) The clerk to the governing body of a school shall give to every member of the governing body, at least two clear days before the meeting, a copy of any written representations received by him at any time up to seven clear days before the meeting, from any person holding land on trust for the purposes of the school.

(7) The governing body of a school shall, at the meeting to consider their decision, take into account any representations made by any person holding land on trust for the purposes of the school.

20.—(1) Within the period of seven clear days following the date on which the meeting is held at which such a governing body of a school take their decision, the governing body shall notify the persons referred to in paragraph (2) of their decision.

- (2) The persons referred to in paragraph (1) are—
 - (a) the local education authority for the area in which the school is or is to be situated;
 - (b) the Secretary of State; and
 - (c) any person holding land on trust for the purposes of the school.

(3) Where the governing body's decision is for a category which is different to the school's indicative allocation, the governing body shall provide the Secretary of State with a copy of any representations, indicating the maker of any representations, received by the clerk to the governing body in response to the notice given under regulation 19(5)(b).

21.—(1) If the decision of the governing body of a school accords with the school's indicative allocation, the school shall be allocated to that category provided for by the indicative allocation, pursuant to paragraph 2 of Schedule 2 to the Act, on the appointed day.

(2) If the decision by the governing body of a school does not accord with the school's indicative allocation, the school shall be allocated, subject to regulation 17, to such category as the Secretary of State may determine, pursuant to paragraph 2 of Schedule 2 to the Act, on the appointed day.

(3) The Secretary of State shall notify the governing body of a school of the category to which it is allocated in accordance with this regulation.

22.—(1) The governing body of a school may not delegate their function of taking their decision.

(2) The quorum of a meeting of the governing body of a school to consider their decision and any vote on the matter thereat shall be two-thirds (rounded up to a whole number) of the persons who are at the time members of the governing body.