
STATUTORY INSTRUMENTS

1999 No. 1780

EDUCATION, ENGLAND AND WALES

WALES

**The Education (Maintained Special
Schools) (Wales) Regulations 1999**

Made - - - - 22nd June 1999

Laid before Parliament 28th June 1999

Coming into force - - 1st September 1999

In exercise of the powers conferred on the Secretary of State by sections 31(1), (2), (3), (6) and (7), 71(7), 98(5) and 138(7) and (8) of, and paragraphs 7, 8 and 10 of Schedule 6, and paragraphs 5 and 12 of Schedule 7 to, the School Standards and Framework Act 1998⁽¹⁾ the Secretary of State for Wales hereby makes the following Regulations—

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Education (Maintained Special Schools) (Wales) Regulations 1999 and shall come into force on 1st September 1999.

(2) These Regulations apply in relation to local education authorities and schools maintained by (or, in the case of new schools, proposed to be maintained by) local education authorities in Wales.

Interpretation

2.—(1) In these Regulations

“the Act” means the School Standards and Framework Act 1998;

“maintained special school” means a community or foundation special school;

(1) 1998 c. 31. For the meaning of “prescribed” and “regulations” see section 142.

“the Assembly” means the National Assembly for Wales or Cynulliad Cenedlaethol Cymru(2).

(2) Unless the context otherwise requires, a reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule to these Regulations so numbered and a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears.

PART II

ESTABLISHMENT, ALTERATION AND DISCONTINUANCE OF MAINTAINED SPECIAL SCHOOLS

Alterations for which proposals must be published

3. For the purposes of subsection (1)(b) and (2)(a) of section 31 of the Act the alterations specified in Schedule 1 are prescribed as alterations for which proposals must be published under that section.

Information to be contained in published proposals

4.—(1) This regulation prescribes for the purposes of section 31(3)(a) of, and paragraph 5(2)(a) of Schedule 7 to, the Act, the information which proposals published under section 31 of, and paragraph 5 of Schedule 7 to, the Act relating to maintained special schools (including new schools) must contain.

(2) Any such proposals must contain the information specified in Part I of Schedule 2 together with—

- (a) the information specified in Part II of that Schedule where the proposals are to establish a new school, or
- (b) the information specified in Part III of that Schedule where the proposals are to make a prescribed alteration to a school, or
- (c) the information specified in Part IV of that Schedule where the proposals are to discontinue a school.

Manner of publication of proposals

5.—(1) This regulation prescribes for the purposes of section 31(3)(b) of, and paragraph 10(4) of Schedule 6 and paragraph 5(2)(b) of Schedule 7 to the Act the manner in which proposals relating to maintained special schools (including new schools) required to be published under section 31 of, or paragraph 10(4) of Schedule 6 or paragraph 5 of Schedule 7 to, the Act shall be published.

(2) Any proposals for the establishment of a school shall be published in at least one newspaper circulating in the area proposed to be served by the school.

(3) Any proposals for the making of a prescribed alteration to a school which would not alter the area to be served by the school or for the discontinuance of the school shall be published—

- (a) in at least one newspaper circulating in the area served by the school; and
- (b) by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

(2) The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c. 38). All the functions of the Secretary of State relevant to these Regulations are transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) with effect from 1st July 1999. Accordingly, in relation to Wales, references to the Secretary of State in the relevant sections of and Schedules to the School Standards and Framework Act 1998 are to be construed as being, or including, a reference to the Assembly *see* section 43 of the Government of Wales Act 1998.

(4) Any proposals for the making of a prescribed alteration to a school which would alter the area proposed to be served by the school, shall be published—

- (a) in at least one newspaper circulating in the area served by the school and the area proposed to be served by the school; and
- (b) by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

(5) Any proposals that paragraph 10(1) of Schedule 6 to the Act (requirement to implement proposals) should cease to apply in relation to proposals published under section 31 of the Act shall be published—

- (a) in at least one newspaper circulating in the same area or areas in which the newspaper or newspapers in which notice of the original proposals was published circulated; and
- (b) where the proposals relate to an existing school, by being posted at or near the main entrance to the school, or, if there is more than one main entrance, all of them.

(6) In complying with their obligation under paragraph (2), (3)(a), (4)(a) or (5)(a) the relevant body shall ensure, insofar as is reasonably practicable, that the circulation areas of all the newspapers in which the proposals are published, taken together cover the whole of the area or areas referred to in paragraph (2), (3)(a), (4)(a) or (5)(a), as the case may be.

(7) For the purposes of paragraph (6), the circulation area is the area in which the newspaper circulates.

Information to be provided to the Assembly

6.—(1) This regulation prescribes for the purposes of section 31(6)(b) of the Act the information in connection with proposals published under section 31 of the Act which must be sent to the Assembly.

(2) Where proposals have been published under section 31 of the Act the relevant body shall send to the Assembly the information specified in Part II of Schedule 3 together with—

- (a) such of the information specified in Part III of that Schedule as applies to the proposals, where the proposals are to establish a new school;
- (b) such of the information specified in Part IV of that Schedule as applies to the proposals, where the proposals are to make a prescribed alteration to a school; and
- (c) such of the information specified in Part V of that Schedule as applies to the proposals, where the proposals are to discontinue a school.

Other bodies to whom proposals should be sent

7.—(1) This regulations prescribes, for the purposes of section 31(7) of the Act, the bodies or persons to whom the relevant body shall also send a copy of any proposals to which section 31(6) of the Act applies.

(2) The bodies or persons referred to in paragraph (1) are—

- (a) the Further Education Funding Council for Wales, if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992(3) applies;
- (b) where the proposals are published by the governing body of a foundation special school, the local education authority who maintain the school;

- (c) where the proposals are to make a prescribed alteration to, or discontinue, a school, each local education authority who maintain a statement under section 324 of the Education Act 1996⁽⁴⁾ in respect of a registered pupil at the school;
- (d) where the proposals are for the establishment of a new school—
 - (i) any local education authority whose area adjoins that of the authority whom it is proposed should maintain the school, and
 - (ii) where it is intended that the school should be situated in the area of a local education authority other than the authority whom it is proposed should maintain the school, the local education authority in whose area the school is proposed to be situated proposed to be situated and any local education authority not falling within paragraph (i) of this sub-paragraph whose area adjoins the area of that local education authority;
- (e) where the proposals are for the transfer of a school to a new site in a different area—
 - (i) the local education authority in whose area the proposed new site is to be situated, and
 - (ii) any local education authority whose area adjoins the area in which the proposed new site is to be situated;
- (f) where the proposals are to make a prescribed alteration to, or to discontinue, a school, the registered parents of every registered pupil at the school;
- (g) any Local Health Authority which acts for any area which includes any part of the area of the local education authority who maintain or whom it is proposed should maintain the school; and
- (h) any National Health Service trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain or whom it is proposed should maintain the school.

Objections to proposals

- 8.—(1) This regulation—
- (a) prescribes for the purposes of paragraph 7(2)(a) and (3) of Schedule 6 and paragraph 12(2) of Schedule 7 to the Act the period within which objections to proposals mentioned in those paragraphs relating to maintained special schools may be sent; and
 - (b) prescribes for the purposes of paragraph 7(2)(b) of Schedule 6 to the Act the period within which a local education authority must send to the Assembly copies of objections to proposals relating to such schools.
- (2) Objections to proposals published under section 31 of, or paragraph 5 of Schedule 7 to, the Act shall be sent to the local education authority or the Assembly (as the case may be)—
- (a) within the period of two months after the date of publication of the proposals, except where sub-paragraph (b) applies; and
 - (b) within the period of one month after the date of publication of the proposals, where—
 - (i) the proposals are published under section 31 of the Act to make a prescribed alteration to or to discontinue a school to which section 15 of the Act applies, or
 - (ii) the proposals are published under section 31 of the Act to establish a new school on the same site as a school to which section 15 of the Act applies and which it is proposed to discontinue.

(4) 1996 c. 56.

(3) The local education authority shall send copies of objections made (and not withdrawn in writing) within the objection period, together with the authority's observations thereon, to the Assembly in accordance with paragraph 7(2)(b) of Schedule 6 to the Act within—

- (a) the period of one month after the end of the objection period except where the proposals fall within paragraph (2)(b); or
- (b) the period of two weeks after the end of the objection period where the proposals fall within paragraph (2)(b).

Approval of proposals with modifications after consultation

9.—(1) This regulation prescribes, for the purposes of paragraph 8(2)(c) of Schedule 6 to the Act, the persons or bodies with whom the Assembly must consult before approving, with modifications, proposals published under section 31 of the Act.

- (2) The persons or bodies prescribed are the persons or body who published the proposals, and—
 - (a) where the proposals were published by the governing body of a foundation special school, the local education authority who maintain the school; or
 - (b) where the proposals were published by the local education authority to make a prescribed alteration to or to discontinue a foundation special school, the governing body of the school.

Modification of approved proposals

10.—(1) This regulation prescribes, for the purposes of paragraph 10(2) of Schedule 6 to the Act, the persons or body—

- (a) at whose request the Assembly may modify approved proposals relating to a maintained special school;
 - (b) whom the Assembly must consult before modifying such approved proposals; and
 - (c) at whose request the Assembly may, where approval of proposals in respect of a maintained special school was given in accordance with paragraph 8(3) of that Schedule (approval expressed to take effect only if an event specified in the approval occurs by a date so specified), specify a later date by which the event in question must occur.
- (2) The Assembly may modify approved proposals or specify a later date at the request of the persons or body who published the proposals.
- (3) Before modifying approved proposals, the Assembly shall consult—
- (a) in the case of approved proposals published by the governing body of a foundation special school, the local education authority who maintain the school;
 - (b) in the case of approved proposals published by the local education authority to make a prescribed alteration to or to discontinue a foundation special school, the governing body of the school; and
 - (c) (in every case), the persons or body who published the proposals.
- (4) In this regulation references to approved proposals include references to proposals which the body or promoters by whom they were published have determined to implement under paragraph 9 of Schedule 6 to the Act.

Application of and modification of provisions of the Act in special cases

11. Schedule 4 has effect for the purpose of applying with modifications (where specified) provisions of section 31 of, and Part II of Schedule 6 to, the Act in relation to proposals published under paragraph 10(4) of Schedule 6 to the Act relating to maintained special schools.

PART III

MISCELLANEOUS

Religious Education

12. Arrangements shall be made to secure that, so far as practicable, every pupil attending a maintained special school will attend daily collective worship and receive religious education, or will be withdrawn from attendance at such worship or from receiving such education in accordance with the wishes of his parent.

Admission to Maintained Special Schools

13.—(1) Subject to paragraph (2) below no child shall be admitted to a maintained special school unless—

- (a) a statement of special educational needs is maintained for him under Part IV of the Education Act 1996⁽⁵⁾;
- (b) he is admitted for the purposes of an assessment of his special educational needs in accordance with section 323 of the Education Act 1996 and his admission to the school is with the agreement of the local education authority, the school's governing body, the child's parent and any person whose advice is to be sought in accordance with regulation 6 of the Education (Special Educational Needs) Regulations 1994⁽⁶⁾; or
- (c) he is admitted following a change in his circumstances, with the agreement of the local education authority, the school's governing body, and the child's parent.

(2) A child may be admitted to a special school established in a hospital provided that he requires hospital treatment.

(3) The admission of a child to a maintained special school in accordance with paragraph 1(c) shall be reviewed at the end of every term.

Signed by authority of the Secretary of State for Wales

Jon Owen Jones
Parliamentary Under Secretary of State, Welsh
Office

22nd June 1999

(5) 1996 c. 56.
(6) S.I. 1994/1047.

SCHEDULE 1

Regulation 3

ALTERATIONS FOR WHICH PROPOSALS MUST BE PUBLISHED

1. Except where the school is established in a hospital an increase in the number of pupils for whom the school makes provision which, when taken with all such previous increases in the number of pupils, would increase the number of such pupils by 10% or the relevant number of such pupils (whichever is the lesser) as compared with—

- (a) the number of such pupils on the appropriate date; or
- (b) if, at any time after that date the number of such pupils was lower than on that date, the lowest number at any such time.

In this paragraph—

“the appropriate date” means whichever is the latest of the following dates—

- (a) the date falling five years before the date on which the local education authority or, as the case may be, the governing body, form the intention to increase the number of pupils for which the school makes provision;
- (b) the date when the school was established;
- (c) where any proposals for the making of a prescribed alteration to the school consisting of an increase in the number of pupils for which the school makes provision have been approved under—
 - (i) section 184 of the Education Act 1993⁽⁷⁾;
 - (ii) section 340 of the Education Act 1996⁽⁸⁾; or
 - (iii) paragraph 8 of Schedule 6 to the Act or paragraph 14 of Schedule 7 to the Act, the date (or latest date) on which any such proposals were implemented; and
- (d) where the local education authority or the Assembly have determined to implement or adopt (as the case may be) any proposals for the making of a prescribed alteration to the school consisting of an increase in the number of pupils for which the school makes provision under paragraph 9 of Schedule 6 or paragraph 14 of Schedule 7 to the Act the date (or latest date) on which any such proposals were implemented; and
- (e) “the relevant number of pupils” is 5 where the school only makes boarding provision and 20 in any other case.

2. The alteration of the upper or lower age limits of the school (that is to say the highest and the lowest ages of pupils for whom education is normally provided at the school).

3. An alteration to a school to provide that—

- (a) a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes; or
- (b) a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only.

4.—(1) The introduction or ending of boarding provision.

(2) Where the school makes provision for day pupils and boarding pupils, the alteration of boarding provision such that the number of pupils for whom boarding provision is made is increased or decreased by 5 pupils.

⁽⁷⁾ 1993 c. 35. Section 184 was repealed by Schedule 38 to the Education Act 1996.

⁽⁸⁾ 1996 c. 56. Section 340 is prospectively repealed by Schedule 31 to the Act.

5. A change in the type of special educational needs for which the school is organised to make provision.

6.—(1) In the case of a school at which one or more (but not all) relevant subjects are taught (wholly or mainly) through the medium of English to any age group of pupils at the school, an alteration to the school such that the number of relevant subjects taught to pupils in that age group which are taught (wholly or mainly) through the medium of Welsh would be increased or decreased by—

- (a) 3 or more, in the case of age groups of pupils who are in the first key stage and age groups of pupils who are in the second key stage, or
- (b) 4 or more, in the case of age groups of pupils who are in the third key stage and age groups of pupils who are in the fourth key stage.

(2) In the case of a school at which one or more (but not all) relevant subjects are taught (wholly or mainly) through the medium of Welsh to any age group of pupils at the school, an alteration to the school such that the number of relevant subjects taught to pupils in that age group which are taught (wholly or mainly) through the medium of English would be increased or decreased by—

- (a) 3 or more, in the case of age groups of pupils who are in the first key stage and age groups of pupils who are in the second key stage, or
- (b) 4 or more, in the case of age groups of pupils who are in the third key stage and age groups of pupils who are in the fourth key stage.

(3) In the case of a school at which there is any age group of pupils who are taught (wholly or mainly) through the medium of English every relevant subject which is taught to pupils in that age group, an alteration to the school such that—

- (a) 2 or more of those subjects, in the case of age groups of pupils who are in the first key stage and age groups of pupils who are in the second key stage, or
- (b) 3 or more of those subjects, in the case of age groups of pupils who are in the third key stage and age groups of pupils who are in the fourth key stage, would be taught (wholly or mainly) through the medium of Welsh to pupils in that age group.

(4) In the case of a school at which there is any age group of pupils who are taught (wholly or mainly) through the medium of Welsh every relevant subject which is taught to pupils in that age group, an alteration to the school such that—

- (a) 2 or more of those subjects, in the case of age groups of pupils who are in the first key stage and age groups of pupils who are in the second key stage, or
- (b) 3 or more of those subjects, in the case of age groups of pupils who are in the third key stage and age groups of pupils who are in the fourth key stage, would be taught (wholly or mainly) through the medium of English to pupils in that age group.

(5) In the case of a school at which any relevant subject is taught to any pupils (wholly or mainly) through the medium of English, an alteration to the school such that all pupils at the school would be taught all relevant subjects (wholly or mainly) through the medium of Welsh.

(6) In the case of a school at which any relevant subject is taught to any pupils (wholly or mainly) through the medium of Welsh, an alteration to the school such that all pupils at the school would be taught all relevant subjects (wholly or mainly) through the medium of English.

(7) For the purposes of this paragraph, the following are relevant subjects—

- (a) religious education, and
- (b) the subjects other than English and Welsh which are foundation subjects, within the meaning of section 354 of the Education Act 1996, in relation to one or more key stages (whether or not they are foundation subjects in relation to the pupils concerned).

(8) For the purposes of this paragraph—

- (a) “age group of pupils” means an age group of pupils who are normally taught together in an ordinary teaching session; and
- (b) “ordinary teaching session” does not include a school assembly or other school activity conducted with large groups of pupils, and references to key stages shall be construed in accordance with section 355 of the Education Act 1996.

7. The transfer of a school to a new site except the transfer to a site which formerly consisted of playing fields (within the meaning of section 77 of the Act) used by the school.

SCHEDULE 2

Regulation 4

INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS

PART I

INFORMATION TO BE CONTAINED IN ALL PUBLISHED PROPOSALS TO ESTABLISH, ALTER OR DISCONTINUE A SCHOOL

1. The name of the local education authority or governing body publishing the proposals.
2. The date on which the proposals are planned to be implemented or where the proposals are planned to be implemented in stages the date on which each stage is planned to be implemented.
3. A statement explaining the effect of paragraph 7 of Schedule 6 or, as the case may be, paragraph 12 of Schedule 7, to the Act and regulation 8, including—
 - (a) the date by which objections should be sent to the local education authority or the Assembly; and
 - (b) the address of the local education authority or the Assembly to which objections should be sent.

PART II

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO ESTABLISH A NEW SCHOOL

4. The location of the site of the proposed school (including, where appropriate, the postal address).
5. The category (as set out in section 20(1)(d) or (e) of the Act) into which the proposed school will fall.
6. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing between boarding and day pupils) for whom provision is proposed.

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PART III

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

7. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing between boarding and day pupils) for whom provision is made at the school (before the proposed alteration).

8. A description of the proposed alteration.

9. Where the proposals would result in the school being organised to make provision for pupils with a different type of special educational needs with the result that the provision which would be made for pupils currently at the school would be inappropriate to their needs, details of the other schools which such pupils may attend including any interim arrangements.

10. Where the proposals relate to a foundation special school a statement as to whether the proposals are to be implemented by the local education authority or the governing body, and if the proposals are to be implemented by both, a statement as to the extent to which they are to be implemented by each body.

11. If the proposals would result in pupils having to transfer to other schools, the proposed arrangements for transport of those pupils to those other schools.

PART IV

ADDITIONAL INFORMATION TO BE CONTAINED IN PUBLISHED PROPOSALS TO DISCONTINUE A SCHOOL

12. Information as to the numbers, age group, sex and special educational needs of the pupils (distinguishing between boarding and day pupils) for whom provision is made at the school.

13. Details of the schools which pupils who are at the school to be discontinued may attend including any interim arrangements.

14. Details of any other measures proposed to be taken to increase the number of school places available in consequence of the proposed discontinuance.

15. The proposed arrangements for transport of such pupils to other schools.

SCHEDULE 3

Regulation 6

INFORMATION TO BE PROVIDED TO THE ASSEMBLY

PART I

INTERPRETATION

1. In this Schedule,

- (a) any reference to proposals being approved or rejected (however framed) includes a reference to the body or promoters by whom they were published determining to implement or not to implement (as the case may be) the proposals under paragraph 9 of Schedule 6 to the Act; and

- (b) references to the current school year are references to the school year in which the proposals are published.

PART II

INFORMATION TO BE PROVIDED IN ALL CASES WHERE PROPOSALS ARE PUBLISHED UNDER SECTION 31

- 2. The objectives of the proposals.
- 3. A statement indicating how the proposals would contribute to enhancing quality of education and how they support the policy for provision for children with special educational needs as set out in the education development plan prepared under section 6 of the Act by the local education authority who maintain the school or whom it is proposed should maintain the school.
- 4. Evidence of the consultation carried out before the proposals were published including—
 - (a) copies of consultation documents; and
 - (b) the views and reports from the persons consulted.
- 5. A statement indicating the consequences for the education of pupils with special education needs in the area if the proposals were rejected.
- 6. A map showing the location of the school or proposed school.
- 7. A list of all—
 - (a) special schools; and
 - (b) other schools maintained by a local education authority at which there is provision which is recognised by the local education authority as reserved for children with special educational needs, in the area of the local education authority who maintain or whom it is proposed should maintain the school.
- 8. Information as to the number of pupils at each school referred to in paragraph 7 or, where the school is of a type referred to in paragraph 7(b), the number of pupils for whom the provision referred to in that sub-paragraph is made, in the current school year together with a forecast of that number for each of the subsequent five school years.
- 9. Information as to the numbers of pupils with special educational needs of each type for whom the local education authority makes provision in the current school year together with a forecast of such numbers for each of the subsequent five school years.

PART III

ADDITIONAL INFORMATION TO BE PROVIDED WHERE PROPOSALS ARE TO ESTABLISH A NEW SCHOOL

- 10. A forecast of the projected number of pupils at the school by sex and, where appropriate, type of special education need for which provision is made, for the four school years following the current school year.
- 11. Details of proposed arrangements for the provision of transport to the proposed school.
- 12. Details of the curriculum to be provided at the proposed school.
- 13. Details of the proposed staffing including details of the time at which it is expected to appoint the head teacher.

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14. The following information relating to the proposed accommodation (including temporary accommodation)–

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the proposed school is to occupy a single or split site;
- (d) how accessible the accommodation will be; and
- (e) details of the general and specialist accommodation (both teaching and non teaching).

15. Details of the costs of establishment of the proposed school.

16. A statement as to whether, as a result of the proposals, premises used for the purposes of another school will no longer be required and if so a statement as to whether those premises are to be sold, and if so the estimated sale proceeds.

17. Where the establishment of the new school involves development for the purpose of the Town and Country Planning Act 1990⁽⁹⁾ a statement as to whether planning permission has been obtained and, if it has not been obtained, details of the reasons (if known) why such permission has not been obtained.

PART IV

ADDITIONAL INFORMATION TO BE PROVIDED WHERE THE PROPOSALS ARE TO MAKE A PRESCRIBED ALTERATION TO A SCHOOL

18. The following information relating to the school for the current school year, and the preceding four school years–

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and each sex; and
- (c) the number of pupils with each type of special educational need for which provision is made at the school, and a forecast of those numbers for each of the subsequent five school years on the assumption that the proposals are approved.

19. Where the number of pupils, or the number of pupils with a particular type of special educational need, is lower in the current school year than in the fourth school year preceding the current school year an explanation of the reason for the decrease in numbers.

20. A statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996⁽¹⁰⁾ during the period starting three years before the date on which the proposals were published.

21. Details of any proposed arrangements for links between the school and any school maintained by a local education authority which is not a special school.

22. The following information relating to the accommodation at the school and to the proposed accommodation (if different) if the proposals are approved:

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the school occupies a single or a split site;
- (d) how accessible the accommodation will be; and

⁽⁹⁾ 1990 c. 8.

⁽¹⁰⁾ 1996 c. 57.

- (e) details of the general and specialist accommodation (both teaching and non teaching).

23. Details of–

- (a) the staffing at the school and the pupil/staff ratio; and
- (b) the proposed staffing at the school and pupil/staff ratio if the proposals are approved.

24. Details of the costs of implementation of the proposals and how it is intended to fund implementation of the proposals (including details of any capital receipts which will be available arising from the implementation of the proposals).

25. Where the proposals are to alter the upper or lower age limits of the school or to make a change in the type of special educational needs for which the school is organised to make provision, details of any changes in the curriculum which would result if the proposals are approved.

26. Details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals.

27. Where the proposals (if approved) would result in additional pupils attending the school–

- (a) details of any transitional arrangement proposed in connection with the education of such pupils; and
- (b) details of the proposed arrangements for the provision of transport for such pupils.

28. Where the proposals (if approved) would result in the school being organised to make provision for pupils with a different type of special educational needs with the result that the provision made for pupils currently at the school would be inappropriate for their needs–

- (a) the number of pupils for whom provision would be inappropriate;
- (b) the names of all local education authorities who have made arrangements for the placement of such pupils at the school;
- (c) details of alternative provision to be made for such pupils who would otherwise have attended the school (including alternative provision to be made by local authorities other than the local education authority who maintain the school, the distance and travelling times from the school to the schools to which it is proposed that the pupils are to transfer and the arrangements for transport for such pupils to such schools);
- (d) details of any transitional arrangements proposed in connection with the education of such pupils; and
- (e) details of the curriculum at any school which such pupils may attend pursuant to any provision made as described in sub-paragraph (c).

29. Where the proposals are to make a change in the type of special educational needs for which the school is organised to make provision–

- (a) evidence of how provision is expected to be made for the range of special educational needs of the projected population of the local education authority's area; and
- (b) details of the qualifications and experience of the staff of the school for dealing with types of special educational needs for which provision will be made at the school if the proposals are approved.

30. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes–

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and

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- (b) details of any transitional period which the body making the proposals wishes specified in a transitional exemption order (within the meaning of section 27 of the Sex Discrimination Act 1975)(11).

31. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only—

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) where the proposals relate to a school which makes provision for children with emotional and behavioural difficulties and are that the school should become an establishment which only admits boys, details of alternative provision to be made for girls.

32. Where the proposals are for the introduction or ending of boarding provision or the alteration of boarding provision such as is mentioned in paragraph 4(2) of Schedule 1—

- (a) the current number of pupils for whom boarding provision can be made;
- (b) the number of pupils for whom it is intended that boarding provision would be made if the proposals are approved;
- (c) a description of the boarding provision at the school or, where the proposals are to introduce boarding provision, the proposed boarding provision;
- (d) where the proposals are to end or reduce boarding provision a statement as to the use to which the former boarding accommodation will be put if the proposals are approved; and
- (e) except where the proposals are to end boarding provision, arrangements for safeguarding the welfare of children at the school.

33. Where the proposals are for a change in the language medium of teaching at the school falling within any of the descriptions of such changes referred to in paragraph 6 of Schedule 1—

- (a) evidence as to the level of demand (or projected demand) by parents living in the area served by the school to which the proposals relate with children of the age group or age groups concerned, for those children to be provided with education through, respectively, the medium of English and the medium of Welsh; evidence as to the extent of which existing provision by the authority of such education for that area exceeds, or falls short of, such demand (or projected demand); and evidence as to the extent to which the proposed change would remedy any such excess or shortfall; or
- (b) any other reasons for the proposed change.

34. Where the proposals are to transfer a school to a new site the map such as is referred to in paragraph 6 showing the location of the school at the proposed site (as well as the existing site).

35. Where the implementation of the proposals will involve development for the purpose of the Town and Country Planning Act 1990, a statement as to whether planning permission has been obtained and, if it has not been obtained, details of the reasons (if known) why such permission has not been obtained.

(11) 1975 c. 65. Section 27 is prospectively amended by paragraph 6 of Schedule 30 to the Act.

PART V

ADDITIONAL INFORMATION TO BE PROVIDED WHERE THE PROPOSALS ARE TO DISCONTINUE A SCHOOL

36. The following information relating to the school for the current school year and the preceding four school years—

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and sex; and
- (c) the number of pupils with each type of special educational need for which provision is made at the school.

37. Where the number of pupils, or the number of pupils with a particular type of special educational need, is lower in the current school year than in the fourth school year preceding the current school year an explanation of the reason for the decrease in numbers.

38. The names of all local education authorities who have made arrangements for the placement of children at the school and the number of children placed at the school by each such authority.

39. Details of alternative provision to be made for pupils who attend the school (including, alternative provision to be made by local education authorities other than the local education authority who maintain the school).

40. Details of any arrangements for staff employed at the school to transfer to other schools.

41. The distance and travelling times from the school to the schools to which it is proposed that the pupils are to transfer.

42. The arrangements proposed for transport to the schools to which it is proposed that the pupils are to transfer.

43. Details of the curriculum at each of the schools to which it is proposed that the pupils are to transfer.

44. Details of any transitional arrangements in connection with the transfer of pupils to other schools.

45. Details of any savings in expenditure as a result of the implementation of the proposals and a statement as to whether the premises used for the purposes of the school will be sold and, if so, the estimated proceeds of sale.

SCHEDULE 4

Regulation 11

PROVISIONS OF SECTION 31 AND SCHEDULE 6 APPLYING TO PROPOSALS PUBLISHED UNDER PARAGRAPH 10(4) OF SCHEDULE 6

The provisions of the Act specified in the left hand column of the table below shall have effect in relation to proposals published under paragraph 10(4) of Schedule 6 to the Act and, where modifications are specified in the right hand column of the table, shall have effect with those modifications.

<i>Provision</i>	<i>Modification</i>
Section 31(3) except paragraph (b).	That subsection shall have effect as if for paragraph (a) and the words “as may be prescribed” there were substituted—

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<i>Provision</i>	<i>Modification</i>
	<p>“contain–</p> <ul style="list-style-type: none"> (a) the information contained in the original proposals; and (b) a statement as to why it is proposed that paragraph 10(1) of Schedule 6 should not apply in relation to the original proposals, and in this section “the original proposals” means the proposals to which it is proposed that paragraph 10(1) of Schedule 6 should not apply”.
Section 31(4).	That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 10(4) of Schedule 6”.
Section 31(6).	<p>That subsection shall have effect as if for the words “under this section” there were substituted “under paragraph 10(4) of Schedule 6” and as if for paragraph (b) there were substituted–</p> <ul style="list-style-type: none"> “(b) a copy of the information sent to the National Assembly for Wales under regulations under this subsection when the original proposals were published (or, where the original proposals were published before 1st September 1999, any information sent to the Secretary of State or the Assembly in connection with the proposals); and (c) the information prescribed in Schedule 3 to the Education (Maintained Special Schools) (Wales) Regulations 1999 which would have been applicable if the original proposals had been published at the time when the proposals under paragraph 10(4) of Schedule 6 were published.”.
Section 31(7).	That subsection shall have effect as if for the words “subsection (5) or (6) applies to such other bodies or persons as may be prescribed” there were substituted “subsection (6) applies to any bodies or persons to whom a copy of the original proposals were sent either pursuant to the regulations under this subsection or (where the original proposals were published before 1st September 1999) pursuant to regulations

<i>Provision</i>	<i>Modification</i>
Section 31(9).	under section 183 of the Education Act 1993 or section 339 of the Education Act 1996". That subsection shall have effect as if for the words "the local education authority or governing body mentioned in subsection (1) or (2) (as the case may be)" there were substituted the words "the local education authority or governing body who, in accordance with paragraph 10(4) of Schedule 6, published the proposals".
Schedule 6—Paragraph 6.	That paragraph shall have effect as if for the words "published under section 28, 29 or 31" there were substituted the words "published under paragraph 10(4)".
Paragraph 7.	That paragraph shall have effect as if— in sub-paragraph (1) for "section 28, 29 or 31" there were substituted "paragraph 10(4)"; in sub-paragraph (2)(a) for "such period as may be prescribed" there were substituted "two months after the date on which the proposals were published"; in sub-paragraph (2)(b) for "such period as may be prescribed" there were substituted "one month after the end of the objection period"; in sub-paragraph (3) for "such period as may be prescribed" there were substituted "two months after the date on which the proposals were published".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 31, 71(7) and 98(5) of, and Schedules 6 and 7 to, the School Standards and Framework Act 1998 ("the 1998 Act"), which are concerned with:

- (a) the establishment, alteration and discontinuance of community and foundation special schools, which are referred to in these Regulations as "maintained special schools" (section 31 and Schedule 6);
- (b) the rationalisation of school places at maintained special schools (Schedule 7);

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- (c) provision for securing that pupils at such schools receive or attend (or are withdrawn from their parents from receiving or attending) religious education and religious worship (section 71(7)); and
- (d) arrangements for the admission of pupils to such schools (section 98(5)).

Those 1998 Act provisions establish a general framework, leaving many details to be prescribed in Regulations made by the Secretary of State. These Regulations prescribe those details.

The functions of the Secretary of State under the various provisions dealt with in these Regulations will vest in the National Assembly for Wales on 1st July 1999. Since the Regulations do not come into force until 1st September 1999 (when the existing categories of maintained schools move to their new categories under the 1998 Act), this is reflected in the wording of the Regulations which refer to the Assembly, rather than to the Secretary of State.

The Regulations provide, in particular, for the following matters:

- (a) alterations to schools for which proposals must be published under section 31 of the 1998 Act (regulation 3 and Schedule 1);
- (b) information which must be included in proposals published under section 31 or paragraph 5 of Schedule 7 (regulation 4 and Schedule 2);
- (c) the manner of publication of proposals referred to in (c) above and proposals under paragraph 10(4) of Schedule 6 (publication of proposals that the Assembly should determine that proposals under section 31 should not be required to be implemented because implementation would be unreasonably difficult or would not be appropriate by reason of changed circumstances) and paragraph 5 of Schedule 7 (regulation 5);
- (d) the information which is to be provided to the Assembly in connection with proposals published under section 31 (regulation 6 and Schedule 3);
- (e) persons and bodies to whom a copy of the proposals must be sent (in addition to the Assembly) (regulation 7);
- (f) the period within which objections to proposals under section 31 and paragraph 5 of Schedule 7 must be submitted, and the period within which (where objections are required to be sent to the LEA) the LEA must forward objections received by them with their observations thereon to the Assembly (regulation 8);
- (g) the persons who must be consulted by the Assembly before the Assembly approves, with modifications, proposals under section 31 (regulation 9);
- (h) the persons or bodies—
 - (i) at whose request the Assembly may modify approved proposals under section 31;
 - (ii) whom it must consult before modifying such approved proposals; and
 - (iii) at whose request it may, where approval of such proposals was given in accordance with paragraph 8(3) of Schedule 6 (approval expressed to take effect only if an event specified in the approval occurs by a date so specified), specify a later date by which the event in question must occur (regulation 10);
- (i) application of and modification of provisions of the 1998 Act in special cases (regulation 11 and Schedule 4); and
- (j) provision requiring arrangements to be made to secure that pupils receive or attend religious education and religious worship (or are withdrawn from receiving or attending religious education or religious worship) (regulation 12); and
- (k) arrangements for the admission of pupils (regulation 13).