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STATUTORY INSTRUMENTS

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**1999 No. 2262**

**The Education (New Schools) (England) Regulations 1999**

**PART II**

**ARRANGEMENTS FOR THE COMPOSITION  
OF TEMPORARY GOVERNING BODIES**

**Application of Part II**

4.—(1) This Part—

- (a) except for regulation 8, shall not apply in any case to which regulation 13 of the School Organisation Regulations applies;
- (b) shall not apply in any case to which regulation 13 of the Second Transitional Regulations applies.

(2) In this Part, any reference (however framed) to proposals published under section 28 or 31 of the 1998 Act to establish a school shall include proposals which have been published or notice of which has been served under the 1996 Act before 1st September 1999 and to which regulation 8 (approval of proposals published before 1st September 1999 to establish a new school) of the School Organisation Regulations applies.

**Arrangements made in anticipation of approval of proposals**

5.—(1) Where any proposals to establish a school have been published under section 28 or 31 of, or paragraph 5 of Schedule 7 to, the 1998 Act the local education authority may make arrangements (which shall be treated for the purposes of the 1988 Act as if made under section 44(1) of that Act) in anticipation of approval of the proposals under paragraph 3 of Schedule 6 or paragraph 8 or 9 of Schedule 7 to that Act or, as the case may be, the determination by the authority under paragraph 4 of Schedule 6 to that Act that they should be implemented.

(2) If the proposals are published under section 28(2)(a) of the 1998 Act and are proposals to establish a voluntary controlled school, the local education authority shall consult the promoters—

- (a) as to whether the power given to the local education authority in paragraph (1) above should be exercised; and
- (b) if the local education authority propose to exercise it, as to the date on which the arrangements should be made.

(3) If the proposals are published under section 28(2)(a) of the 1998 Act and the proposals are to establish a voluntary aided or foundation school, the local education authority and the promoters shall consider—

- (a) whether the power given to the local education authority in paragraph (1) above should be exercised, and
- (b) where they agree that it should, on what date the arrangements should be made.

(4) Where in a case falling within paragraph (3) the local education authority and the promoters fail to agree on the question mentioned in sub-paragraph (a) or on that mentioned in sub-paragraph (b), either of them may refer the matter to the Secretary of State and on a reference under this paragraph the Secretary of State shall give such direction as he thinks fit.

#### **Agreements necessary for arrangements**

6.—(1) Where proposals to establish a foundation or a voluntary school school have been published by promoters under section 28(2)(a) of the 1998 Act a local education authority shall not make arrangements in respect of the school without the agreement of the promoters as to any provision which will be made in relation to the temporary foundation governors.

(2) In the event of any disagreement between the local education authority and the promoters in respect of the provision referred to in paragraph (1), either of them may refer the matter to the Secretary of State, and on a reference under this paragraph the Secretary of State shall give such direction as he thinks fit.

#### **Termination of arrangements**

7. Any arrangements made in relation to a proposed school under section 44(1) of the 1998 Act (including any arrangements treated as so made by regulation 5(1)) shall come to an end if—

- (a) the proposals are withdrawn;
- (b) the proposals are rejected under paragraph 3 of Schedule 6 or paragraph 9 of Schedule 7 to the 1998 Act;
- (c) (in the case of proposals published by a local education authority) the local education authority determine under paragraph 4 of Schedule 6 to the 1998 Act not to implement them; or
- (d) the school organisation committee or, as the case may be, the adjudicator determines under paragraph 5(3) of Schedule 6 to the 1998 Act that paragraph 5(1) of that Schedule should cease to apply to the proposals.

#### **Termination of arrangements: transitional provisions**

8.—(1) This regulation applies where—

- (a) an arrangement has been made before 1st September 1999 under section 96(3) or 97(2) of the 1996 Act in anticipation of approval of proposals; and
- (b) regulation 13 of the School Organisation Regulations applies in relation to the temporary governing body constituted by the arrangement.

(2) Where this regulation applies—

- (a) sections 96(4) or 97(7) of the 1996 Act shall continue to apply in relation to the termination of the arrangement; and
- (b) the arrangement shall also come to an end if the school organisation committee or, as the case may be, the adjudicator determines under paragraph 5(3) of Schedule 6 to the 1998 Act that paragraph 5(1) of that Schedule should cease to apply to the proposals.