
STATUTORY INSTRUMENTS

1999 No. 362

The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999

PART IV

GROUPED SCHOOLS

Transfer of staff

55.—(1) Subject to paragraph (2), this regulation shall apply to any person who immediately before the transfer date is employed by the grouped governing body of—

- (a) a grouped school which is an aided school, (or which, immediately prior to the appointed day, was an aided school); or
- (b) a grouped school which is a grant-maintained school (or which, immediately prior to the appointed day, was a grant-maintained school).

(2) This regulation shall not apply to any person whose contract of employment terminates on the day immediately preceding the transfer date.

(3) A person who before the transfer date in relation to a grouped school within paragraph (1)(a) or (b) has been appointed by the grouped governing body of that school to work at the school as from the transfer date shall be treated for the purposes of this regulation as if he had been employed by the grouped governing body immediately before that day to do such work at the school as he would have been required to do on or after that day under his contract of employment with the grouped governing body.

(4) The contract of employment between a person to whom this regulation applies and his former employer shall have effect from the transfer date as if originally made between him and his new employer.

(5) Without prejudice to paragraph (4)—

- (a) all the former employer's rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this regulation be transferred to the new employer on the transfer date; and
- (b) anything done before that date by or in relation to the former employer in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the new employer.

(6) Paragraphs (4) and (5) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this regulation.

(7) In this regulation—

“aided school” has the meaning in the 1996 Act;

“first transfer date” means the transfer date of the first school in the group to have a governing body constituted under the instrument of government;

“the former employer” means the grouped governing body;

“the new employer”—

- (a) in the case of a person who, immediately before the transfer date in relation to a school within paragraph (1)(a) above, was employed by the grouped governing body to work solely at that school, means the governing body of that school constituted under the instrument of government;
- (b) in the case of a person who, immediately before the first transfer date in relation to a school within paragraph 1(a) above, was employed by the grouped governing body to work at more than one school in the group, shall be determined by the grouped governing body before the first transfer date and shall be either the governing body of one of the grouped schools constituted under an instrument of, subject to paragraph (9), government or the local education authority, provided that the authority has given its prior consent to becoming the employer;
- (c) in the case of a person who, immediately before the transfer date in relation to a school within paragraph (1)(b) above, was employed by the grouped governing body to work solely at that school means;
 - (i) where on the appointed day the school becomes a foundation or voluntary aided school, the governing body of that school constituted under the instrument of government; and
 - (ii) where on the appointed day the school becomes a community or voluntary controlled school, the local education authority; and
- (d) in the case of a person who, immediately before the first transfer date in relation to a school within paragraph (1)(b) above, was employed by the grouped governing body to work at more than one school in the group, shall be determined by the grouped governing body before the first transfer date and shall be either;
 - (i) the governing body constituted under an instrument of government of one of the grouped schools, which on the appointed day becomes a foundation or voluntary aided school, or
 - (ii) the local education authority, in the case of a grouped school which on the appointed day becomes a voluntary controlled or community school or (provided that the authority has given its prior consent to becoming the employer and subject to paragraph (9)) in the case of a grouped school which on the appointed day becomes a foundation or voluntary aided school; and

“transfer date” in relation to a grouped school means the appointed day or the day after the actual incorporation date, if different.

(8) References in this regulation to the grouped governing body include a grouped transitional governing body.

(9) A local education authority may only become the new employer of a person employed to work at a foundation or voluntary aided school under this regulation where that person is employed to work in a non-teaching post.