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STATUTORY INSTRUMENTS

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**1999 No. 362**

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

**PART II**

**NEW LEA MAINTAINED SCHOOLS**

**Allocation of new LEA maintained schools to new categories**

- 6.—(1) This regulation applies to a proposed school proposals for the establishment of which—
- (a) have been approved, or have effect under section 504(3) of the 1996 Act as if approved, under section 37, 43 or 340(4) of that Act before the appointed day, or
  - (b) have been determined to be implemented by the local education authority, under section 38 of that Act, before the appointed day,

but have not been implemented before the appointed day and for which a temporary governing body have been constituted under section 96 or 97 of, and Schedule 9 to, the 1996 Act.

(2) In relation to any proposed school to which this regulation applies, such proposals, if published under section 35(1) of the 1996 Act or if having effect under section 504(3) of the 1996 Act as having been made by a local education authority shall, on the appointed day, be treated as—

- (a) published under section 28(1)(a) of the 1998 Act as proposals to establish a new community school, and
- (b) approved, or determined to be implemented, under paragraph 3 or 4 or, as the case may be, paragraph 8 or 9 of Schedule 6 to the 1998 Act,

and accordingly the proposals shall, on the appointed day, fall to be implemented under paragraph 5 or 10 of Schedule 6 to the 1998 Act and the school when open shall be a community school and treated as established as such under section 28 of that Act.

(3) In relation to any proposed school to which this regulation applies, such proposals, if published under section 41(1) of the 1996 Act, shall on the appointed day, be treated—

- (a) where the Secretary of State has made an order under section 48(1)(a) of the 1996 Act as—
  - (i) proposals published under section 28(2)(a) of the 1998 Act to establish a new voluntary controlled school, and
  - (ii) approved under paragraph 3 of Schedule 6 to the 1998 Act or, as the case may be, approved or determined to be implemented under paragraph 8 or 9 of that Schedule,and accordingly the proposals shall, on the appointed day, fall to be implemented under paragraph 5 or 10 of Schedule 6 to the 1998 Act and the school when open shall be a voluntary controlled school and treated as established as such under section 28 of that Act; and

- (b) where the Secretary of State has made an order under section 48(1)(b) of the 1996 Act, as—

- (i) proposals published under section 28(2)(a) of the 1998 Act to establish a new voluntary aided school, and
- (ii) approved under paragraph 3 or, as the case may be, approved or determined to be implemented under paragraph 8 or 9 of Schedule 6 to the 1998 Act,

and accordingly the proposals shall, on the appointed day, fall to be implemented under paragraph 5 or 10 of Schedule 6 to the 1998 Act and the school when open shall be a voluntary aided school and treated as established as such under section 28 of that Act.

(4) In relation to any proposed school to which this regulation applies, if notice of the proposal to establish the school was served pursuant to section 339(1)(a) of the 1996 Act, or if the proposals have effect under section 504(3) of the 1996 Act as having been made by the local education authority in exercise of their powers to establish a school which is specially organised to make special educational provision for pupils with special educational needs, the proposals shall on the appointed day, be treated as—

- (a) published under section 31(1)(a) of the 1998 Act to establish a new community special school; and
- (b) approved or determined to be implemented under paragraph 3 or 4 or, as the case may be, paragraph 8 or 9 of Schedule 6 to the 1998 Act,

and accordingly the proposals shall, on the appointed day, fall to be implemented under paragraph 5 or 10 of Schedule 6 to the 1998 Act and the school when open shall be a community special school and treated as established as such under section 31 of that Act.

(5) Without prejudice to regulation 13(5), where proposals fall to be implemented under paragraph 5 or 10 of Schedule 6 to the 1998 Act by virtue of this regulation, section 44 of the 1998 Act(1) shall not apply.(2)

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(1) Section 44 of the 1998 Act is not yet in force, except for section 44(5) and (6).

(2) The proposed school already has a temporary governing body constituted under the 1996 Act which continues as a transitional governing body from the appointed day under this Part. This Part provides for the making of the instrument of government and constitution of the governing body under the 1998 Act.