

---

STATUTORY INSTRUMENTS

---

**1999 No. 362**

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

**PART II**

**NEW LEA MAINTAINED SCHOOLS**

**Modifications to the 1998 Act to enable the instrument of government to be made on or after the appointed day**

**9.**—(1) Section 141 of, and Schedules 9 and 12 to, the 1998 Act shall apply with the following modifications to enable the instrument of government for a new LEA maintained school to be made on or after the appointed day.

(2) Regulation 8(2) shall apply.

(3) Regulation 8(3) shall apply, subject to the omission of “school or” before “proposed school”.

(4) In paragraph 15(1) of Schedule 9 to the 1998 Act, the reference to “If the governing body of any maintained school so determine”, shall be treated as if it were a reference to “If the transitional governing body so determine”.

(5) Paragraph 1 of Schedule 12 to the 1998 Act shall have effect as if—

(a) in sub-paragraph (1)(h) there were substituted for “the date”, the words “in accordance with paragraph (2A), the date or dates”;

(b) after sub-paragraph (2) there were inserted the following sub-paragraph—

“(2A) Where an instrument of government is made on or after the appointed day for a school or proposed school which had a temporary governing body immediately before the appointed day, such instrument of government:

(a) in the case of a proposed school, shall determine the constitution of the governing body and other matters relating to the proposed school as a maintained school of the category to which it will belong under regulations made under paragraph 10 of Schedule 2 to this Act;

(b) in the case of a proposed school, shall include a description of the ethos of the school, if it is anticipated that the school will become a voluntary school with a religious character (provided that such description shall be of no effect if the school does not become a voluntary school with a religious character);

(c) shall take effect from the date of making for the purpose of constituting the governing body under the instrument of government but shall not affect the constitution or name of the governing body conducting the proposed school or school pending constitution of the permanent governing body under the instrument of government; and

(d) for all other purposes, shall take effect from the date of making, or the school’s opening date if later.”; and

(c) for sub-paragraph (3), there were substituted the following sub-paragraph—

“(3) Where, for the purposes of any provision of Part II of Schedule 9, it is material to determine the number of registered pupils at a school or proposed school referred to in paragraph (2A), the school or proposed school shall be treated as having as registered pupils the maximum number of pupils referred to in the relevant proposals (within the meaning of section 181(2) of the Education Act 1996, whether or not that section is still in force) or, if no such number is referred to, such number as the local education authority may determine.”.

(6) References in paragraph 3 of Schedule 12 to the 1998 Act to—

- (a) “the governing body” and “foundation governors” shall be treated as references to the transitional governing body and members of the transitional governing body who were when appointed temporary foundation governors within the meaning of the 1996 Act (as the case may be);
- (b) “the school” shall be treated as including the proposed school;
- (c) “the category of school to which the school belongs” shall include references to the category of schools which the proposed school will belong when it is a maintained school.