

*This Statutory Instrument has been made in consequence of a defect in [SI 2005/1731](#) and is being issued free of charge to all known recipients of that Statutory Instrument.*

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## STATUTORY INSTRUMENTS

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**2006 No. 1164**

### **EDUCATION, ENGLAND**

#### **The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2006**

<i>Made</i>	- - - -	<i>24th April 2006</i>
<i>Laid before Parliament</i>		<i>4th May 2006</i>
<i>Coming into force</i>	- -	<i>31st May 2006</i>

The Secretary of State for Education and Skills makes the following Regulations in exercise of the powers conferred by section 138(7) of, and paragraph 2(2) of Schedule 8 to, the School Standards and Framework Act 1998<sup>(1)</sup>.

#### **Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2006 and shall come into force on 31st May 2006.

(2) In these Regulations—

“the Amending Regulations” means the Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2005<sup>(2)</sup>; and

“the Principal Regulations” means the Education (Change of Category of Maintained Schools) (England) Regulations 2000<sup>(3)</sup>.

#### **Amendment of the Amending Regulations**

2. Schedule 2B as it appears in the Amending Regulations (that is to say all the words after the end of regulation 10 of the Amending Regulations) shall be omitted.

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(1) [1998 c. 31](#). By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. [1999/672](#)), the powers conferred by these provisions are exercisable by the Secretary of State only in relation to England.

(2) S.I. [2005/1731](#).

(3) S.I. [2000/2195](#) amended by S.I. [2005/1731](#); there are other amending instruments but none is relevant.

### Amendment of the Principal Regulations

3. The Principal Regulations shall be further amended as follows.
4. After Schedule 2A there shall be inserted the following Schedule—

#### “SCHEDULE 2B

Section 28

#### PROVISIONS OF SECTION 28 OF, AND PART 1 TO SCHEDULE 6 TO THE ACT APPLIED BY SCHEDULE 2A, AS MODIFIED

- (3) Proposals under paragraph 2 of Schedule 8 shall—
  - (a) contain the following information—
    - (i) the name of the school for which the governing body are publishing the proposal;
    - (ii) the proposed implementation date;
    - (iii) the relevant contact name (if any) and address of the school’s governing body to where any objections or comments may be sent and the date by which they should be sent;
    - (iv) a statement that it is proposed to change the category of the school (stating the current category of school) to a foundation school;
    - (v) a statement that the school will—
      - (aa) have or continue to have a foundation established otherwise than under this Act and if it will, the identity of that foundation, or
      - (bb) belong or continue to belong to a group of schools for which a foundation body acts and if it does, the identity of that body and the identity of the other schools in the group for which the body performs or will perform the functions set out in section 21(4), or
      - (cc) be a foundation school not falling within either of sub-paragraphs (v)(aa) or (bb) above;
    - (vi) details of any trusts on which the school premises are held or it is proposed will be held or any proposed trusts on which it is proposed the school premises will be held;
    - (vii) details of the body or authority to whom, on the date on which it is proposed that the school change category, it is proposed that land should be transferred in accordance with regulations made under paragraph 5 of Schedule 8;
    - (viii)
      - (aa) the name of any person who is entitled to appoint the foundation governors and, if there is more than one such person, the basis upon which such appointments are made,
      - (bb) details of any foundation governorship to be held ex officio by the holder of a named office, and
      - (cc) the name of any person who is entitled to request the removal of any ex officio foundation governors and to appoint any substitute governor;
    - (ix) where the school is to be a foundation school which has a religious character, a description of the religious ethos of the school; and
  - (b) shall be published—
    - (i) by being posted in a conspicuous place in the area served by the school;
    - (ii) in at least one newspaper circulating in the area served by the school; and

(iii) 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) Before publishing any proposals under paragraph 2 of Schedule 8, the governing body shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.

(6) The governing body shall send at the time of publication a copy of the published proposals to the Secretary of State and to the local education authority.

(8) Schedule 6 as modified shall have effect in relation to the procedure for dealing with proposals under paragraph 2 of Schedule 8.

## SCHEDULE 6

### **Application of Part 1**

1.—(1) This Part of this Schedule applies to proposals published under paragraph 2 of Schedule 8 which relate to a school in England.

### **Objections**

2.—(1) Any person may make objections to or comments on any proposals published under paragraph 2 of Schedule 8.

(2) Any objections or comments made under this paragraph shall be sent to the name (if any) and address of the governing body given in the notice published under section 28(3) within 4 weeks from the date of the publication of the proposals.

### **Determination by governing body whether to implement proposals**

4.—(1) Where any proposals have been published by a governing body under paragraph 2 of Schedule 8 then (subject to sub-paragraph (2)) that governing body shall after considering all objections and comments which are received on or before the period referred to in paragraph 2(2), determine whether the proposals shall be implemented.

(2) Any determination under sub-paragraph (1) must be made within the period of six months beginning with the date of publication of the proposals, and the governing body shall notify the Secretary of State and the local education authority of any determination made by them under sub-paragraph (1).

### **Requirement to implement proposals**

5.—(1) Where the governing body have determined under paragraph 4 to implement any proposals published under paragraph 2 of Schedule 8, then (subject to sub-paragraph (2)), the proposals shall be implemented, in the form in which they were so determined in accordance with regulations made under paragraph 5 of Schedule 8.

(2) The governing body may modify the implementation date in respect of the proposals after consulting the relevant local education authority.”

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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24th April 2006

*Jacqui Smith*  
Minister of State  
Department for Education and Skills

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the [Education \(Change of Category of Maintained Schools\) \(England\) Regulations 2000 \(No. 2195\)](#) (“the Principal Regulations”) for the purpose of inserting Schedule 2B (setting out in full the changes made by virtue of Schedule 2A) into the Principal Regulations. In doing so it rectifies the fact that the Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2005 (“the Amending Regulations”) failed to give effect to this.

Regulation 2 revokes Schedule 2B as it appears in the Amending Regulations.

Regulation 4 inserts Schedule 2B into the Principal Regulations to follow on from Schedule 2A.