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School Standards and Framework Act 1998

1998 CHAPTER 31

PART II

NEW FRAMEWORK FOR MAINTAINED SCHOOLS

CHAPTER III

GOVERNMENT OF MAINTAINED SCHOOLS

Governing bodies

36 Governing bodies.

- (1) Each maintained school shall have a governing body, which shall be a body corporate constituted in accordance with Schedule 9.
- (2) Schedule 10 has effect in relation to the general powers of the governing body and other matters relating to it as a body corporate.
- (3) Schedule 11 has effect in relation to the membership and proceedings of the governing body and other matters including the appointment of a clerk to, or to any committee of, the governing body.

Modifications etc. (not altering text)

- C1** S. 36 extended (10.3.1999) by [S.I. 1999/362, reg. 30\(1\)\(b\)](#)
S. 36 extended (10.3.1999) by [S.I. 1999/362, reg. 49\(7\)\(b\)](#)
- C2** S. 36(1) applied (1.9.1999) by [S.I. 1999/2262, reg. 36\(3\)](#).

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Commencement Information

- II** S. 36 wholly in force at 1.9.1999; s. 36(3) in force at Royal Assent see s. 145; s. 36 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

Instruments of government

37 Instruments of government.

- (1) For every maintained school there shall be an instrument (known as the instrument of government) which determines the constitution of the governing body and other matters relating to the school.
- (2) Schedule 12 has effect with respect to the contents and making of instruments of government and the review and variation of such instruments.
- (3) The governing body of a maintained school shall not conduct the school under a name other than the one for the time being set out in the school's instrument of government.

Commencement Information

- I2** S. 37 wholly in force at 1.9.1999; s. 37(1)(2) in force for certain purposes at Royal Assent see s. 145(5); s. 37 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

VALID FROM 01/10/1998

Functions of governing body

38 General responsibility of governing body for conduct of school.

- (1) Subject to any other statutory provision, the conduct of a maintained school shall be under the direction of the school's governing body.
- (2) The governing body shall conduct the school with a view to promoting high standards of educational achievement at the school.
- (3) Regulations may—
 - (a) set out terms of reference for governing bodies of maintained schools;
 - (b) define the respective roles and responsibilities of governing bodies and head teachers of such schools, whether generally or with respect to particular matters, including the curriculum for such schools;
 - (c) confer functions on governing bodies and head teachers of such schools.
- (4) The governing body of a maintained school shall, in discharging their functions, comply with—
 - (a) the instrument of government; and
 - (b) (subject to any other statutory provision) any trust deed relating to the school.

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Commencement Information

- I3** S. 38 wholly in force at 1.9.1999; s. 38 not in force at Royal Assent see s. 145(3); s. 38(3) in force at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1](#), Pt. I; s. 38 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

39 Additional functions of governing body.

- (1) The governing body of a maintained school shall in accordance with regulations—
- establish procedures for dealing with all complaints relating to the school other than those falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of any other statutory provision; and
 - publicise the procedures so established.
- (2) The governing body of a maintained school may require pupils in attendance at the school to attend at any place outside the school premises for the purpose of receiving any instruction or training included in the secular curriculum for the school.
- (3) The governing body and head teacher of—
- a community or voluntary controlled school, or
 - a community special school,
- shall comply with any direction given to them by the local education authority concerning the health or safety of persons on the school's premises or taking part in any school activities elsewhere.

Commencement Information

- I4** S. 39 partly in force; s. 39 not in force at Royal Assent see s. 145(3); s. 39(1) in force for certain purposes at 1.10.1998 by [S.I. 1998/2212](#), art. 2, [Sch. 1](#), Pt. I; s. 39(2)(3) in force at 1.9.1999 by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

Control of school premises

VALID FROM 01/09/1999

40 Control of use of school premises by governing body.

Schedule 13 has effect in relation to the control by the governing body of a maintained school of the occupation and use of the school premises.

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Fixing of school holidays and times of sessions

VALID FROM 01/09/1999

41 Responsibility for fixing dates of terms and holidays and times of sessions.

- (1) In the case of a community, voluntary controlled or community special school—
 - (a) the local education authority shall determine the dates when the school terms and holidays are to begin and end; and
 - (b) the governing body shall determine the times of the school sessions.
- (2) In the case of a foundation, voluntary aided or foundation special school the governing body shall determine—
 - (a) the dates and times when the school terms and holidays are to begin and end, and
 - (b) the times of the school sessions.
- (3) Regulations may make provision—
 - (a) as to the procedure to be followed where the governing body of a school within subsection (1) propose to make any change in the times of the school sessions;
 - (b) as to the implementation of any such proposal;
 - (c) for enabling the local education authority to determine, for any purposes of the regulations, whether any person is to be treated as a parent of a registered pupil at the school;
 - (d) that for all or any prescribed purposes of the regulations references to parents are to be read as excluding those who are not individuals.
- (4) In this section “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

VALID FROM 01/04/1999

Reports and parents’ meetings

42 Governors’ reports and other information.

- (1) Once in every school year the governing body of a maintained school shall prepare a report (a “governors’ report”) dealing with such matters, and otherwise complying with such requirements, as may be specified in regulations.
- (2) Such regulations may—
 - (a) impose requirements on the governing body of a maintained school with respect to—
 - (i) the giving of copies of a governors’ report to such persons as may be prescribed, and
 - (ii) making such copies available for inspection at the school;
 - (b) make provision for—

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- (i) enabling the governing body to determine the language or languages in which a governors' report is to be produced and the form or forms in which it is to be produced;
 - (ii) requiring them to comply with any direction given by the local education authority with respect to any additional language to be used or with respect to any additional form in which the report is to be produced.
- (3) The governing body of a maintained school shall provide the local education authority with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions.
- (4) The head teacher of a maintained school shall provide the governing body or (as the case may be) the local education authority with such reports in connection with the discharge of his functions as the governing body or the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions.
- (5) Where a requirement under subsection (4) is imposed on the head teacher by the authority—
 - (a) the authority shall notify the governing body of that requirement; and
 - (b) the head teacher shall give the governing body a copy of any report made by him in complying with it.

Commencement Information

- I5** S. 42 wholly in force at 1.9.1999; s. 42 not in force at Royal Assent see s. 145(3); s. 42(1)(2) in force for specified purpose at 1.4.1999 by [S.I. 1999/1016](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-6](#), [Sch. 4](#)); s. 41 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with [arts. 3-5](#), [Schs. 5-7](#)).

43 Annual parents' meetings.

- (1) Once in every school year the governing body of a maintained school shall hold a meeting (an "annual parents' meeting") which is open to—
 - (a) all parents of registered pupils at the school;
 - (b) the head teacher; and
 - (c) such other persons as the governing body may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for discussion of—
 - (a) the governors' report;
 - (b) the discharge by the governing body, the head teacher and the local education authority of their functions in relation to the school;
 - (c) the aims and values of the school;
 - (d) how the spiritual, moral, cultural, mental and physical development of pupils is to be promoted at the school;
 - (e) how pupils are to be prepared for the opportunities, responsibilities and experiences of adult life and citizenship;
 - (f) the standards of educational achievement of pupils; and

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- (g) how the governing body are to promote the good behaviour, discipline and well-being of pupils.
- (3) A governing body may, however, refrain from holding an annual parents' meeting in a particular school year if—
- (a) the school is a community or foundation special school which is established in a hospital and the governing body are of the opinion that it would be impracticable to hold such a meeting in that year; or
 - (b) the school is a maintained school other than one within paragraph (a), the governing body are of the opinion that it would be impracticable to hold such a meeting in that year, and at least 50 per cent. of the registered pupils at the school are boarders at the time when they form that opinion.
- (4) Regulations may make provision—
- (a) for the proceedings at an annual parents' meeting to be under the control of the governing body;
 - (b) as to the procedure to be followed at any such meeting, including provision restricting the right to vote on any question put to the meeting to parents of registered pupils at the school;
 - (c) imposing requirements on the governing body, the head teacher and the local education authority in relation to resolutions which have been passed at any such meeting, including requirements framed by reference to any opinion formed by the governing body;
 - (d) for enabling the governing body or (as the case may be) the local education authority to determine, for any purposes of the regulations, whether any person is to be treated as the parent of a registered pupil at the school.

Commencement Information

I6 S. 43 wholly in force at 1.9.1999; s. 43 not in force at Royal Assent see. s. 145(3); s. 43(4) in force at 1.4.1999 by S.I. 1999/1016, art. 2(1), **Sch. 1** (with arts. 3-6, **Sch. 4**); s. 43 in force at 1.9.1999 in so far as not already in force by S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-5, **Schs. 5-7**).

VALID FROM 01/10/1998

Government of new schools

44 Arrangements for government of new schools.

- (1) Where proposals for the establishment of a maintained school fall to be implemented under paragraph 5 or 10 of Schedule 6, the local education authority shall make arrangements providing for the constitution of a temporary governing body for the school.
- (2) Once constituted in accordance with arrangements made under subsection (1) the temporary governing body shall continue in existence until such time as the governing body are constituted for the school under an instrument of government.
- (3) The local education authority shall secure that the governing body are so constituted—

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- (a) as soon as is reasonably practicable after the time when the requirement for there to be an instrument of government for the school takes effect in accordance with subsection (4), and
 - (b) in any event not later than the last day of the term in which the school first admits pupils.
- (4) The requirement for there to be an instrument of government for a school (imposed by section 37) shall take effect in relation to a school falling within subsection (1) above as from the school opening date; and for the purposes of this Part proposals for the establishment of a maintained school shall be taken to be implemented on that date.
- (5) Regulations may make provision with respect to—
- (a) the making and termination of arrangements for the constitution of temporary governing bodies, including such arrangements made in anticipation of proposals falling to be implemented as mentioned in subsection (1);
 - (b) the constitution, meetings and proceedings of temporary governing bodies, the payment of allowances to temporary governors, and the appointment of clerks to such bodies;
 - (c) the transition from a temporary governing body to a governing body constituted under an instrument of government; and
 - (d) such other matters relating to temporary governing bodies as the Secretary of State considers appropriate.
- (6) Regulations under subsection (5) may, in connection with any matters falling within that subsection—
- (a) modify any provision made by or under any of Schedules 9 to 12;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision.
- (7) Subject to subsection (8), the temporary governing body of a school shall be treated for the purposes of the Education Acts as if they were the governing body during the period—
- (a) beginning with the school opening date, and
 - (b) ending with the time when the governing body are constituted for the school under an instrument of government;
- and for the purposes of sections 495 to 498 of the ^{M1}Education Act 1996 (general default powers of the Secretary of State) the temporary governing body of a school shall also be so treated at any time falling before the school opening date.
- (8) Despite subsection (7), nothing in any of the following provisions, namely—
- (a) section 36,
 - (b) section 37(1) or (2), or
 - (c) (subject to any regulations made by virtue of subsection (5)) any of Schedules 9 to 12,
- applies to any temporary governing body.
- (9) In this Part “school opening date”, in relation to a new maintained school, means the date when the school first admits pupils.

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Modifications etc. (not altering text)

- C3** S. 44 applied (with modifications) (1.9.1999) by S.I. 1999/704, **reg. 13**.
- C4** S. 44 modified (temp.) (E.) (2.9.2002) by The Education Act 2002 (Transitional Provisions etc.) (England) Regulations 2002 (S.I. 2002/2113), **reg. 7**
- C5** S. 44(1) extended (1.9.1999) by S.I. 1999/2243, **reg. 5(1)**.
S. 44(1) restricted (1.9.1999) by S.I. 1999/2243, **reg. 6(1)**.
S. 44(1) extended (1.9.1999) by S.I. 1999/2262, **reg. 5(1)**.
S. 44(1) amended (1.9.1999) by S.I. 1999/2262, **reg. 7**.
- C6** S. 44(5) modified (20.11.1998) by S.I. 1998/2670, **reg.3(1)(2)**
- C7** S. 44(6) modified (20.11.1998) by S.I. 1998/2670, **reg.3(1)**

Commencement Information

- I7** S. 44 wholly in force at 1.9.1999; s. 44 not in force at Royal Assent see s. 145(3); s. 44(5)(6) in force at 1.10.1998 by S.I. 1998/2212, **art. 2, Sch. 1, Pt. 1**; s. 44 in force at 1.9.1999, in so far as not already in force, by S.I. 1999/2323, **art. 2(1), Sch. 1** (with **arts. 3-5, Schs. 5-7**).

Marginal Citations

- M1** 1996 c. 56.

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