

SCHEDULES

SCHEDULE 2

Section 12(10).

NEW SCHOOLS

PART I

GENERAL

1 In this Schedule—

"arrangement" means (except in paragraph 2(2)(b) or 19) an arrangement made under section 12 of this Act for the constitution of a temporary governing body for a new school;

"new school" means any school, or proposed school, which is required to have a temporary governing body or in respect of which the local education authority have power to make an arrangement under section 12(4);

"relevant proposal" means the proposal (of a kind mentioned in section 12) by reference to which the school in question is a new school; and

"temporary governor" means any member of a temporary governing body.

Constitution of temporary governing body

2 (1) Subject to the provisions of this Schedule, every temporary governing body shall be constituted—

(a) in accordance with the provisions of sections 3 and 7 of this Act, in the case of a school whose governing body will be required to be constituted in accordance with those provisions; and

(b) in accordance with the provisions of section 4 of this Act, in the case of a school whose governing body will be required to be constituted in accordance with those provisions.

(2) For the purpose of the application of section 3, 4 or 7 of this Act in relation to the constitution of its temporary governing body, a new school shall be treated as having as registered pupils the maximum number of pupils referred to—

(a) in the relevant proposal; or

(b) in the case of a new school which will be a special school; in the arrangements for the school approved by the Secretary of State in accordance with regulations made under section 12 of the 1981 Act (approval of special schools).

(3) In co-opting any person (otherwise than as a temporary foundation or teacher governor) to be a member of a temporary governing body of a new school which will be a county, controlled or maintained special school, the temporary governors concerned shall—

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- (a) have regard—
 - (i) to the extent to which they and the other temporary governors are members of the local business community ; and
 - (ii) to any representations made to the temporary governing body as to the desirability of increasing the connection between the temporary governing body and that community; and
 - (b) where it appears to them that no temporary governor of the new school is a member of the local business community, or that it is desirable to increase the number of temporary governors who are, co-opt a person who appears to them to be a member of that community.
- (4) The first meeting of any temporary governing body shall be called—
- (a) by their clerk ; or
 - (b) where he fails to call it within such period as the local education authority consider reasonable, by the authority.

PART II

SCHOOL GOVERNMENT

Transition from temporary governing body to governing body

- 3
- (1) The requirement for there to be an instrument of government for a school to which section 1 of this Act applies shall take effect in relation to a new school from the date on which the relevant proposal is implemented.
 - (2) When that requirement takes effect, paragraph 2(2) above shall apply in relation to the governing body of the school as it applied in relation to its temporary governing body and shall continue to apply, for the purposes of determining (at any time after the governing body is first constituted) what provision would be required to be made by a new instrument of government for the school, until such time as—
 - (a) the number of registered pupils at the school reaches the maximum referred to in paragraph 2(2); or
 - (b) the local education authority exercise the power conferred on them by virtue of sub-paragraph (3) below.
 - (3) The instrument of government for every school to which paragraph 2(2) above applies at the time when it is made shall provide for the local education authority to have power to direct that that paragraph shall cease to apply in relation to the school.
 - (4) The local education authority shall secure that the governing body of any new school is constituted—
 - (a) as soon as is reasonably practicable after the requirement for there to be an instrument of government for the school takes effect; and
 - (b) in any event not later than the last day of the term in which pupils first attend the new school or (as the case may be) first attend the school after it becomes a maintained school.
 - (5) Where the requirement for there to be an instrument of government for a new school has taken effect, the temporary governing body of the school shall, until such time as the governing body is constituted—

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- (a) continue in existence (notwithstanding that the arrangement under which they were constituted has come to an end by virtue of paragraph 5 below) ;
and
 - (b) be treated as if they were the governing body.
- (6) Where a new school is grouped under section 9 of this Act, with effect from the time when an instrument of government is required for the school, any consent given by, or consultation with, the temporary governing body shall be treated for the purposes of section 10(5) and (6) of this Act as having been given by, or (as the case may be) held with, the governing body.
- (7) Where any question arises as to the date which is to be taken to be the implementation date of any such proposal for the purposes of this paragraph, it shall be determined by the Secretary of State.
- 4 (1) Before making any order under section 1 of this Act in respect of a new school, the local education authority shall consult the temporary governing body and head teacher.
- (2) Before making any such order in respect of a new school which will be a voluntary school, the authority shall—
 - (a) secure the agreement of the temporary governing body to the terms of the proposed order ; and
 - (b) if it embodies or varies an instrument of government, secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
- (3) Where a local education authority propose to make any such order in respect of a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (4) On any reference to him under this paragraph the Secretary of State shall give such direction as he thinks fit.

Duration of arrangement for temporary governing body

- 5 (1) Every arrangement shall (if it has not been brought to an end under sub-paragraph (2) below) come to an end when the requirement for there to be an instrument of government for the new school first has effect.
- (2) Where an arrangement has been made by virtue of section 12(3) or (4) of this Act and
 - (a) the proposal in question is withdrawn ;
 - (b) the Secretary of State has decided not to approve that proposal or (as the case may be) not to approve the school as a special school; or
 - (c) the local education authority have, under section 12(7) of the 1980 Act, determined not to implement that proposal;the occurrence of that event shall bring the arrangement to an end.

Composition of temporary governing body

- 6 (1) No local education authority shall make an arrangement in respect of a new school which will be a controlled school without the agreement of the promoters as to the provision which will be made in relation to the temporary foundation governors; and

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in the event of any disagreement between the authority and the promoters in respect of that provision, either of them may refer the matter to the Secretary of State.

- (2) No local education authority shall make an arrangement in respect of a new school which will be an aided school without the agreement of the promoters as to the composition of the temporary governing body; and in the event of any disagreement between the authority and the promoters as to the composition of that body, either of them may refer the matter to the Secretary of State.
- (3) On any reference under this paragraph, the Secretary of State shall give such direction as he thinks fit.

Appointment of temporary parent and teacher governors

- 7 (1) The temporary parent governors for a new school shall, subject to sub-paragraph (2) below, be appointed—
- (a) where the school will be a county, controlled or maintained special school, by the local education authority ; and
 - (b) where it will be an aided school, by the promoters.
- (2) Where—
- (a) two or more schools have been, or are to be, discontinued (" the discontinued schools "); and
 - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school;
- the local education authority may (subject to sub-paragraph (3) below) provide for any of the governing bodies of the discontinued schools to appoint some or all of the temporary parent or teacher governors of the new school.
- (3) No provision may be made under sub-paragraph (2) above for the appointment of temporary parent or teacher governors of a new school which will be an aided school without the agreement of the promoters; and in the event of any disagreement between the authority and the promoters as to whether any such provision should be made, either of them may refer the matter to the Secretary of State.
- (4) On any reference under sub-paragraph (3) above, the Secretary of State shall give such direction as he thinks fit.
- (5) Before making any provision under sub-paragraph (2) above for the appointment of temporary parent or teacher governors of a new school which will be a controlled school, the local education authority shall consult the promoters.
- (6) No person shall be appointed under sub-paragraph (1) or (2) above as a temporary parent governor of a new school unless—
- (a) he is the parent of a child who is likely to become a registered pupil at the school; or
 - (b) where it is not reasonably practicable to appoint such a person, he is the parent of a child of compulsory school age.
- (7) No person shall be appointed under sub-paragraph (1) as a temporary parent governor of a new school if he is—
- (a) an elected member of the authority ;
 - (b) an employee of the authority or of the governing body of any aided school maintained by the authority ; or

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- (c) a co-opted member of any education committee of the authority.

Temporary teacher governors

- 8 (1) Subject to paragraph 7(2) above, the temporary teacher governors of a new school shall be co-opted by a resolution passed at a meeting of those temporary governors who have not themselves been co-opted.
- (2) No person shall be appointed as a temporary teacher governor of a new school unless he is employed as a teacher in a school maintained by a local education authority.

Duty to appoint suitably experienced members

- 9 (1) Any person appointing a person as a temporary governor of a new school shall have regard to the desirability of that person being suitably experienced.
- (2) For the purposes of this paragraph, a person is suitably experienced if he has served as a governor or temporary governor of a school and, in particular (in a case where registered pupils at another school which has been, or is to be, discontinued are expected to transfer to the new school), if he has served as a governor or temporary governor of that other school.

Proceedings etc.

- 10 (1) The proceedings of a temporary governing body shall not be invalidated by—
- (a) any vacancy among their number; or
- (b) any defect in the appointment of any temporary governor.
- (2) Any member of a temporary governing body may at any time resign his office, or be removed from office, in the same way as a member of a governing body constituted under an instrument of government.
- (3) The minutes of the proceedings of any temporary governing body shall be open to inspection by the local education authority.
- (4) The Secretary of State may by regulations make similar provision in relation to temporary governing bodies and their members as may be made in relation to governing bodies and their members under section 8 of this Act.

Miscellaneous

- 11 (1) The qualification of any person for appointment as a temporary governor, of a particular category, of any new school shall not have the effect of disqualifying him for appointment as a temporary governor, of any other category, of that school.
- (2) No person shall at any time hold more than one temporary governorship of the same school.
- (3) Where any temporary governor is to be appointed by persons acting jointly, the appointment shall be made, in the event of failure on the part of those persons to make an agreed appointment—
- (a) by the Secretary of State ; or
- (b) in accordance with any direction given by him.

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- (4) Subject to paragraph 2(3) above, where temporary governors are required to co-opt one or more persons to be temporary governors, the arrangement under which the temporary governing body are constituted shall not make any provision which has the effect of restricting those governors in their choice of person to co-opt.
- (5) Sub-paragraph (4) above does not apply in relation to foundation governors.
- (6) No person shall be qualified for membership of any temporary governing body unless he is aged eighteen or over at the date of his appointment.

PART III

ORGANISATION AND FUNCTIONS

General

- 12 (1) The requirement for there to be articles of government for certain schools, which is imposed by section 1 of this Act, shall not apply in relation to a new school until such time as it is required to have an instrument of government (in accordance with section 1 as read with paragraph 3 of this Schedule).
- (2) The determination of those matters relating to the conduct of any new school which require to be determined before a governing body is constituted for the school under an instrument of government shall be under the direction of the temporary governing body, but subject to any provision made by or under this Act (including, in particular, this Schedule) or any other enactment.
- (3) The Secretary of State may by regulations make similar provision in relation to consultation with temporary governing bodies as he has power to make in relation to consultation with governing bodies under section 16(2) of this Act.

Reports and information to be provided by temporary governing body

- 13 (1) Every temporary governing body shall furnish to the local education authority 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).
- (2) Every temporary governing body shall make such reports and returns, and give such information, to the Secretary of State as he may require for the purpose of the exercise of his functions in relation to education.
- (3) Every temporary governing body shall prepare—
 - (a) immediately before the arrangement under which they are constituted comes to an end ; and
 - (b) for the purpose of assisting the governing body who will succeed them ;
 a brief report of the action which they have taken in the discharge of their functions; and shall recommend (with reasons) persons who belong to the community served by the new school and who are, in the opinion of the temporary governing body, suitable for appointment as co-opted members of the governing body.
- (4) Before making any recommendations under sub-paragraph (3) above, a temporary governing body shall consult representatives of the local business community.

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- (5) All minutes and papers of any temporary governing body, including the report prepared under sub-paragraph (3) above, shall be made available to their successors.

Head teacher's reports

- 14 (1) The head teacher of any new school for which a temporary governing body have been constituted shall furnish that body, or (as the case may be) the local education authority, with such reports in connection with the discharge of his functions as that body or authority may require (either on a regular basis or from time to time).
- (2) Where, under sub-paragraph (1) above, any requirement is imposed by a local education authority on the head teacher of a new school which will be an aided school, the authority shall notify the temporary governing body of that requirement; and the head teacher of any such school shall furnish that body with a copy of any report which he makes in complying with any such requirement.

Preparation of curriculum

- 15 (1) The head teacher of any new school for which a temporary governing body have been constituted shall, in preparing to discharge his functions in relation to the curriculum for the school, consult that body and the local education authority.
- (2) Any authority who have been consulted under this paragraph shall inform the head teacher of the resources which are likely to be made available to the school; and the head teacher shall have regard to any information so given to him.

School terms etc.

- 16 Pending the coming into force of the articles of government for a new school, the times at which the school session is to begin and end on any day and the dates and times at which the school terms and holidays are to begin and end shall be determined—
- (a) by the temporary governing body, in the case of a school which will be an aided school; and
- (b) by the local education authority, in any other case.

Discipline

- 17 Pending the coming into force of the articles of government for a new school which will be a county, voluntary or maintained special school, the head teacher and the temporary governing body shall be under the same duties as will be required to be imposed on him and the governing body by virtue of section 22(a) to (e) of this Act.

Finance

- 18 Where a temporary governing body have been constituted for any new school, the local education authority shall consult that body and the head teacher on their proposed expenditure on books, equipment and stationery for the school.

Admission of pupils

- 19 (1) The initial arrangements for the admission of pupils to a new school shall be made—

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- (a) where the school will be a county or controlled school, by the local education authority ; and
 - (b) where it will be an aided school, by the temporary governing body or, where that body have not been constituted and the promoters consider that it is expedient for the arrangements to be determined without delay, by the promoters.
- (2) Any person making any initial arrangements under this paragraph shall have regard to the arrangements in force for the admission of pupils to comparable schools in the area of the local education authority.
- (3) Before making any such initial arrangements for a new school which will be a county school, the authority shall consult the temporary governing body unless—
- (a) that body have not been constituted ; and
 - (b) the authority consider that it is expedient for the initial arrangements to be determined without delay.
- (4) Before making any such initial arrangements for a new school which will be a controlled school, the authority shall consult—
- (a) the temporary governing body ; or
 - (b) where that body have not been constituted, the promoters.
- (5) Before making any such initial arrangements for a new school which will be an aided school, the temporary governing body or (as the case may be) the promoters shall consult the authority.
- (6) Sections 6 to 8 of the 1980 Act (admission to schools) shall have effect, in relation to any new school, as if the references to governors included references to the person responsible for the admission of pupils under the initial arrangements for that school.

Appointment of staff etc. at new aided schools

- 20 (1) For the purposes of the appointment and dismissal of staff at any new school which will be an aided school, the local education authority and the temporary governing body shall (subject to sub-paragraph (2) below) have the same powers, and be under the same duties, as would the authority and the governing body for an aided school whose articles of government provided for—
- (a) staff employed solely in connection with the provision of school meals to be appointed by the authority ; and
 - (b) other staff employed at the school to be appointed by the governing body.
- (2) The first appointment of a clerk to the temporary governing body of any such school shall be made by the promoters.
- (3) Where the arrangement for the constitution of a temporary governing body of any such school comes to an end, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.
- (4) The authority shall, with a view to enabling staff to be appointed in good time, notify the temporary governing body of every such school of the steps (if any) which they intend to take in respect of the school under sections 22(4) and 24(2) of the 1944 Act (powers of authority in relation to certain staff).

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- (5) Paragraphs 21 to 25 and 26 (1) and (2) below shall not apply in relation to any such school.

Determination of staff complement

- 21 (1) Where a temporary governing body have been constituted for a new school, the complement of teaching and non-teaching posts for the school shall be determined by the local education authority.
- (2) Section 34(2) and (3) of this Act shall apply in relation to any complement determined under this paragraph.

The selection panel

- 22 (1) Whenever a selection panel is required by virtue of paragraph 23 or 25 below, it shall be constituted in accordance with this paragraph.
- (2) A selection panel shall consist of such number of persons appointed to it by the local education authority, and such number of temporary governors appointed to it by the temporary governing body, as the authority shall determine.
- (3) The number so determined shall—
- (a) in each case, be not less than three ; and
 - (b) in relation to appointments made by the temporary governing body, be not less than the number determined in relation to appointments made by the authority.
- (4) The temporary governing body and the authority shall have power to replace, at any time, any member of a selection panel whom they have appointed.
- (5) The Secretary of State may by regulations make provision, for the purposes of this paragraph, as to the meetings and proceedings of selection panels.

Appointment of head teacher and acting head teacher

- 23 (1) Subject to sub-paragraphs (2) and (3) below, the same provision shall apply in relation to the appointment of a head teacher for a new school for which a temporary governing body have been constituted as is required to be made in relation to the appointment of a head teacher by the articles of government of a school to which section 37 of this Act applies.
- (2) Where—
- (a) two or more schools are to be discontinued (" the discontinued schools "); and
 - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school;
- the local education authority may, in consultation with the temporary governing body, appoint one of the head teachers of the discontinued schools as the first head teacher for the new school, instead of following the procedure mentioned in sub-paragraph (1) above.
- (3) In the event of the post of head teacher for the new school being vacant, the authority may, if they think fit, appoint an acting head teacher after consulting the temporary governing body.

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Appointment of certain other staff

- 24 (1) Subject to sub-paragraph (3) below, the same provision shall apply in relation to the appointment of any person to a post which is part of the complement of a new school for which a temporary governing body have been constituted as is required to be made in relation to the appointment of any person to such a post by the articles of government of a school to which section 38 of this Act applies.
- (2) The local education authority shall consult the temporary governing body and the head teacher before appointing any person to work solely at the school otherwise than—
- (a) in a teaching post;
 - (b) in a non-teaching post which is part of the complement of the school; or
 - (c) solely in connection with either or both of the following—
 - (i) the provision of meals ;
 - (ii) the supervision of pupils at midday.
- (3) This paragraph does not apply in relation to the appointment of a head teacher or deputy head teacher or to any temporary appointment pending—
- (a) the return to work of the holder of the post in question ; or
 - (b) the taking of any steps required by this Schedule in relation to the vacancy in question.

Appointment of deputy head teacher

- 25 Where a temporary governing body have been constituted for a new school, the provision which is to apply in relation to the appointment of a deputy head teacher of the school shall be—
- (a) the same as that which may be made in the articles of government of a school to which section 39 of this Act applies by virtue of subsection (1) (a) of that section ; or
 - (b) where the local education authority so decide, the same as that which may be made in the articles of government of such a school by virtue of subsection (1)(6) of section 39.

Appointment of clerk to temporary governing body

- 26 (1) Where a temporary governing body have been constituted for a new school, the clerk to the temporary governing body shall be appointed by the local education authority.
- (2) Where the arrangement for the constitution of a temporary governing body of any new school comes to an end, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of a clerk under section 40 of this Act.
- (3) Where the clerk to a temporary governing body fails to attend any meeting of theirs, they may appoint one of their number to act as clerk for the purposes of that meeting, but without prejudice to his position as a temporary governor.

PART IV

MISCELLANEOUS

Travelling and subsistence allowances etc.

- 27 Section 58 of this Act shall apply in relation to the members of temporary governing bodies as it applies in relation to the members of governing bodies of county, voluntary and maintained special schools.

Expenses of temporary governing bodies, etc.

- 28 Where a temporary governing body are constituted for a new school, the local education authority shall be under the same duty to defray the expenses incurred in relation to the temporary governing body, and the staff appointed in accordance with the provisions of this Schedule, as they would be if the relevant proposal had been implemented and the temporary governing body were the governing body of the school.

Powers of Secretary of State

- 29 For the purposes of the following provisions of the 1944 Act—
- (a) section 67(1) (determination of disputes);
 - (b) section 68 (prevention of unreasonable exercise of functions); and
 - (c) section 99(1) and (2) (default);
- a temporary governing body shall be treated as if they were the governing body of the school in question.

Provision of information for temporary governing bodies

- 30 (1) Every local education authority shall secure that the temporary governing body of each of the new schools which will be maintained by them are, on being constituted, provided (free of charge) with such explanatory and other information as the authority consider is required to enable that body to discharge their functions effectively.
- (2) Where a new school will be a county, controlled or maintained special school, the authority shall, in discharging their duty under sub-paragraph (1) above, inform the temporary governing body, in particular—
- (a) of the number of members of any selection panel required by virtue of paragraph 23 or 25 above who are to be appointed by the authority and the number who are to be appointed by the temporary governing body ;
 - (b) where the authority intend to exercise the power conferred on them by paragraph 23(2) above, of their intention to do so;
 - (c) of the provision which is to apply in relation to the appointment of the deputy head teacher of the school;
 - (d) of the complement of staff for the school; and
 - (e) of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.
- (3) Where a new school will be an aided school, the authority shall, in discharging their duty under sub-paragraph (1) above, inform the temporary governing body, in

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particular, of their proposals with regard to the appointment of staff for the school and the timing of appointments.