

## SCHEDULES

### SCHEDULE 12

#### INSTRUMENTS OF GOVERNMENT

##### *Procedure for making instrument*

- 3 (1) The governing body shall prepare a draft of the instrument and submit it to the local education authority.
- (2) Where the school has foundation governors, the governing body shall not submit the draft to the authority unless the following persons have agreed to the contents of the draft, namely—
- (a) the foundation governors;
  - (b) any trustees under a trust deed relating to the school; and
  - (c) in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority.
- (3) On receiving the draft the authority shall consider whether it complies with all applicable statutory provisions, and if—
- (a) the authority are content with the draft, or
  - (b) there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in sub-paragraph (2) that the draft should be revised to any extent,
- the instrument shall be made by order of the authority in the form of the draft or (as the case may be) in the form of the revised draft.
- (4) If, in the case of a school which has foundation governors, there is at any time disagreement as to the contents of the draft among the bodies and persons mentioned in sub-paragraph (3)(b), any of those bodies or persons may refer the draft to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.
- (5) If neither of paragraphs (a) and (b) of sub-paragraph (3) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons why they are not content with the draft instrument, and
  - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the draft;
- and the instrument shall be made by order of the authority either in the form of a revised draft agreed between the authority and the governing body or (in the absence of such agreement) in such form as the authority think fit having regard, in particular, to the category of school to which the school belongs.
- (6) When taking any decision as to the name of the school the governing body, the authority and (if the school has foundation governors) the persons mentioned in sub-

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*Status: This is the original version (as it was originally enacted).*

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paragraph (2), shall have regard to any guidance given from time to time by the Secretary of State.

- (7) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any part of a draft instrument that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.