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## SCHEDULES

### SCHEDULE 15

Section 51.

#### SUSPENSION OF FINANCIAL DELEGATION

##### Modifications etc. (not altering text)

- C1** Sch. 15: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), **ss. 25(1)(b)**, 216(4) (with **ss. 210(8)**, 214(4)); [S.I. 2003/124](#), art. 4

##### *Suspension of financial delegation for mismanagement, etc.*

- 1 (1) This paragraph applies where it appears to the local education authority that the governing body of a school which has a delegated budget—
- (a) have been guilty of a substantial or persistent failure to comply with any delegation requirement or restriction,<sup>F1</sup> ...
  - (b) are not managing in a satisfactory manner the expenditure or appropriation of the sum referred to in section 50(1) [<sup>F2</sup>or
  - (c) are not managing in a satisfactory manner any expenditure, or sums received, in the exercise of the power conferred by section 27 of the Education Act 2002 (power to provide community facilities etc.).]
- (2) The authority may suspend the governing body's right to a delegated budget by giving the governing body not less than one month's notice of the suspension, unless by reason of any gross incompetence or mismanagement on the part of the governing body or other emergency it appears to the authority to be necessary—
- (a) to give the governing body a shorter period of notice, or
  - (b) to give the governing body a notice suspending their right to such a budget with immediate effect.
- (3) The notice must specify the grounds for the suspension, giving particulars—
- (a) of any alleged failure on the part of the governing body to comply with any delegation requirement or restriction;
  - (b) of any alleged mismanagement on their part; and
  - (c) if applicable, of the basis upon which a period of notice of less than one month was given under sub-paragraph (2).
- (4) [<sup>F3</sup>The notice must also inform the governing body of their right to appeal against the suspension under paragraph 3 and of the time within which such an appeal may be brought.]
- (5) A copy of the notice must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (6) [<sup>F4</sup>The authority shall send a copy of the notice to the Secretary of State.]

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- (7) In this paragraph “delegation requirement or restriction” means any requirement or restriction applicable, under or by virtue of the scheme or section 50(3), to the management by the governing body of the school’s budget share.
- (8) Any notice given under this paragraph must be in writing.

#### **Textual Amendments**

- F1** Word in Sch. 15 para. 1(1)(a) omitted (2.9.2002 for E., 1.9.2003 for W.) by virtue of [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 5](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F2** Sch. 15 para. 1(1)(c) and preceding word inserted (2.9.2002 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 3 para. 5](#) (with ss. 210(8), 214(4)); S.I. 2002/2002, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II
- F3** Sch. 15 para. 1(4) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)
- F4** Sch. 15 para. 1(6) repealed (8.2.2007 for E.) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 5 para. 6(a), [Sch. 18 Pt. 6](#); S.I. 2006/3400, art. 4(c)(d)

#### **Modifications etc. (not altering text)**

- C2** Sch. 15 para. 1 modified (20.11.1998) by [S.I. 1998/2670](#), [reg. 6](#)

#### *Review of suspension*

- 2 (1) The local education authority concerned—
- (a) shall review before the beginning of every [<sup>F5</sup>financial year][<sup>F5</sup>funding period] any suspension under paragraph 1 which is for the time being in force, unless the suspension took effect less than two months before the beginning of [<sup>F6</sup>that year][<sup>F6</sup>that period]; and
  - (b) may review at any time any suspension under paragraph 1 which is for the time being in force, if they consider it appropriate to do so.
- (2) For the purposes of any review under sub-paragraph (1), the authority shall give the governing body and the head teacher of the school an opportunity of making representations with respect to the suspension.
- (3) If on the review the authority consider it appropriate to do so, they shall revoke the suspension—
- (a) (in the case of a review under sub-paragraph (1)(a)) with effect from the beginning of the [<sup>F7</sup>financial year][<sup>F7</sup>funding period] next following the review; or
  - (b) (in the case of a review under sub-paragraph (1)(b)) with effect from such time before the beginning of the [<sup>F7</sup>financial year][<sup>F7</sup>funding period] next following the review as they may determine.
- (4) The authority shall give the governing body and the head teacher notice in writing of their decision on the review.
- (5) [<sup>F8</sup>If—
- (a) the review was conducted under sub-paragraph (1)(a), and
  - (b) the authority’s decision is to refuse to revoke the suspension,

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the notice must inform the governing body of their right to appeal against the refusal under paragraph 3 and of the time within which such an appeal may be brought.]

#### Textual Amendments

- F5** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(a) (with s. 119); S.I. 2005/2034, art. 8
- F6** Words in Sch. 15 para. 2(1)(a) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(2)(b) (with s. 119); S.I. 2005/2034, art. 8
- F7** Words in Sch. 15 para. 2(3) substituted (1.11.2005 for E.) by Education Act 2005 (c. 18), s. 125(4), Sch. 18 para. 11(3) (with s. 119); S.I. 2005/2034, art. 8
- F8** Sch. 15 para. 2(5) repealed (8.2.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 6(b), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d)

#### *Appeal against suspension or refusal to revoke it*

- 3 [F9(1) A governing body may appeal to the Secretary of State against—
- (a) the imposition of any suspension under paragraph 1 of their right to a delegated budget; or
  - (b) any refusal of a local education authority to revoke any such suspension on a review under paragraph 2(1)(a).
- (2) An appeal under this paragraph must be brought within the period of two months beginning with the date on which the governing body receive the authority's notice under paragraph 1(2) or 2(4), as the case may be.
- (3) But if the authority's notice failed to comply with paragraph 1(4) or 2(5), such an appeal may be brought at any time before the end of the period of two months beginning with the date on which the governing body are informed by the authority in writing of their right of appeal under this paragraph.
- (4) On an appeal under this paragraph, the Secretary of State—
- (a) may allow or reject the appeal; and
  - (b) shall have regard, in making his determination, to the gravity of the default on the part of the governing body and the likelihood of its continuing or recurring.
- (5) Where the Secretary of State allows an appeal under this paragraph, the suspension of the governing body's right to a delegated budget shall be revoked from a date determined by the Secretary of State.]

#### Textual Amendments

- F9** Sch. 15 para. 3 repealed (8.2.2007 for E.) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 5 para. 6(c), Sch. 18 Pt. 6; S.I. 2006/3400, art. 4(c)(d)

#### Modifications etc. (not altering text)

- C3** Sch. 15 para. 3(1)(a) excluded (20.11.1998) by S.I. 1998/2670, reg.6

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*Effect of suspension of right to delegated budget*

- 4 (1) During any period when a governing body's right to a delegated budget is suspended under paragraph 1—
- (a) the local education authority's duty under section 50(1) shall not apply in relation to the school; but
  - (b) the authority may permit the governing body to take such decisions as to the spending of sums to be met from the school's budget share as the authority consider appropriate.
- (2) Where in accordance with sub-paragraph (1)(b) the governing body have decided that a particular sum should be spent, they shall, in spending that sum, comply with such reasonable conditions as the authority think fit to impose.
- (3) The governing body may, to such extent as they may specify, delegate their powers in relation to that sum to the head teacher.

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