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## SCHEDULES

### SCHEDULE 6

#### STATUTORY PROPOSALS: PROCEDURE AND IMPLEMENTATION

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

- C1** Sch. 6 modified (1.9.1999) by [S.I. 1999/704](#), [regs. 21, 22](#), [Sch. 1](#).  
Sch. 6 continued (1.9.2001) by [S.I. 2001/2678](#), [reg. 2\(2\)](#)
- C1** Schs. 6, 7: power to modify conferred (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), [ss. 74\(2\)\(a\), 216\(4\)](#) (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2003/124](#), [art. 4](#)

#### PART I

##### PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: ENGLAND

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

- C1** Sch. 6 Pt. I applied (with modifications) (1.9.1999) by [S.I. 1999/2259](#), [regs. 5\(1\), 10](#), [Sch. 1](#).  
Sch. 6 Pt. I applied (with modifications) (1.9.1999) by [S.I. 1999/2259](#), [regs. 5\(2\), 10](#), [Sch. 1](#).  
Sch. 6 Pt. 1 (paras. 1-5) applied (with modifications) (E.) (1.9.2000) by [S.I. 2000/2195](#), [reg. 4\(1\)](#), [Sch. 1](#) (as amended (15.9.2003) by [The Education \(Change of Category of Maintained Schools\) \(Amendment\) \(England\) Regulations 2003 \(S.I. 2003/2136\)](#), [regs. 1\(1\), 10](#))

##### *Application of Part I*

- 1 (1) This Part of this Schedule applies to proposals published under section 28, 29 or 31 which relate to a school or proposed school in England.
- (2) In this Part of this Schedule “the relevant committee” means the school organisation committee for the area of the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school.

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

- C2** Sch. 6 para. 1 applied (with modifications) (1.9.1999) by [S.I. 1999/2212](#), [reg. 16](#), [Sch. 4](#).  
Sch. 6 para. 1 applied (with modifications) (1.9.1999) by [S.I. 1999/2213](#), [reg. 15\(1\)](#), [Sch. 4](#) (as amended (1.9.2006) by [The Education \(New Secondary School Proposals\) \(England\) Regulations 2006 \(S.I. 2006/2139\)](#), [regs. 1, 26\(17\)](#)).

##### *Objections*

- 2 (1) Any person may make objections to any proposals published under section 28, 29 or 31.

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- (2) Where the proposals were published by a local education authority—
- (a) any objections under this paragraph shall be sent to the authority within such period as may be prescribed (“the objection period”); and
  - (b) within such period as may be prescribed the authority shall send to the relevant committee copies of all objections made (and not withdrawn in writing) within the objection period, together with the authority’s observations on them.
- (3) Where the proposals were published by a governing body or promoters, any objections under this paragraph shall be sent to the relevant committee within such period as may be prescribed.

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

- C3** Sch. 6 para. 2 applied (with modifications) (1.9.1999) by [S.I. 1999/2212, reg. 16, Sch.4](#)  
 Sch. 6 para. 2 applied (with modifications) (1.9.1999) by [S.I. 1999/2213, reg. 15, Sch. 4](#) (as amended: (1.6.2003) by [The Education \(School Organisation Proposals\) \(England\) \(Amendment\) Regulations 2003 \(S.I. 2003/1229\), regs. 1\(1\), 16](#); and (1.9.2006) by [The Education \(New Secondary School Proposals\) \(England\) Regulations 2006 \(S.I. 2006/2139\), regs. 1, 26\(17\)](#))

*Approval of proposals*

- 3 (1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—
- (a) the proposals were published by a local education authority and either—
    - (i) objections to the proposals have been made in accordance with paragraph 2 and any of them have not been withdrawn in writing within the objection period; or
    - (ii) such approval is required by virtue of paragraph 4(5); or
  - (b) the proposals were published by a governing body or promoters.
- (2) Where any proposals require approval under this paragraph, they shall be considered in the first instance by the relevant committee, who may—
- (a) reject the proposals,
  - (b) approve them without modification, or
  - (c) approve them with such modifications as the committee think desirable after consulting such persons or bodies as may be prescribed.
- [<sup>F1</sup>(2A) The requirement to make a decision under sub-paragraph (2) in the case of proposals of a prescribed description only applies if, at the time when the decision falls to be made under that sub-paragraph, the committee are satisfied that the proposals do not relate to any relevant proposals.
- (2B) In sub-paragraph (2A), “relevant proposals” means proposals of a description prescribed for the purposes of this sub-paragraph.
- (2C) In deciding for the purposes of sub-paragraph (2A) whether any proposals are related the relevant committee shall have regard to any guidance given from time to time by the Secretary of State.]

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- (3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.
- (4) When deciding whether or not to give any approval under this paragraph the committee shall have regard to—
- (a) any guidance given from time to time by the Secretary of State, and
  - (b) the school organisation plan for the committee's area;
- and the committee shall not give any such approval unless they are satisfied that adequate financial resources will be available to enable the proposals to be implemented.
- (5) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and
  - (b) the body or promoters by whom the proposals were published request the committee to refer the proposals to the adjudicator,
- they shall refer the proposals to the adjudicator.
- Regulations made for the purposes of this sub-paragraph (or any other corresponding provision of this Act) may be framed by reference to the opinion of the committee.
- (6) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision, but
  - (b) have failed to reach such a decision on that matter,
- they shall refer the proposals to the adjudicator.
- (7) Where any proposals are referred to the adjudicator under sub-paragraph (5) or (6)—
- (a) he shall consider the proposals afresh; and
  - (b) sub-paragraphs (2) to (4) shall apply to him in connection with his decision on the proposals as they apply to the committee.
- (8) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, 29 or 31 from withdrawing those proposals by notice in writing given to the relevant committee at any time before the proposals are determined under this paragraph.

#### Textual Amendments

**F1** Sch. 6 para. 3(2A)-(2C) inserted (1.4.2003 for E.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 21 para. 115\(2\)](#) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2003/124](#), art. 4

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

**C4** Sch. 6 para. 3 modified (1.9.1999) by [S.I. 1999/2213](#), [reg. 15\(2\)\(4\)](#), [Sch. 5 para. 3](#) (as amended by [S.I. 2003/1229](#), [regs. 1\(1\)](#), 17

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*Determination by LEA whether to implement proposals*

- 4 (1) Where any proposals have been published by a local education authority under section 28, 29 or 31 and either—
- (a) no objections were made in accordance with paragraph 2, or
  - (b) all objections so made were withdrawn in writing within the objection period,
- then (subject to the following provisions of this paragraph) the authority shall determine whether the proposals should be implemented.
- (2) Any determination under sub-paragraph (1) must be made within the period of four months beginning with the date of publication of the proposals (as determined in accordance with regulations); and the authority shall notify the relevant committee of any determination made by them under sub-paragraph (1).
- (3) The requirement to make a determination under sub-paragraph (1) in the case of any proposals only applies if, at the time when the authority’s determination falls to be made under that sub-paragraph, they are satisfied that the proposals are not related to any of the following, namely—
- (a) any undetermined proposals published under section 28(2) to establish a new foundation or voluntary school in the area of the authority;
  - (b) any undetermined proposals published under section 28(2), 29(2) or 31(2) by the governing body of a foundation, voluntary or foundation special school in the area of the authority;
  - (c) any undetermined proposals published by the authority which, by virtue of sub-paragraph (1)(a) of paragraph 3, require approval under that paragraph; [<sup>F2</sup>or]
  - (d) any order under paragraph 2(2) or 3(2) of Schedule 7 [<sup>F3</sup>[<sup>F4</sup>or]
  - (e) any undetermined proposals published under Schedule 7 to the Learning and Skills Act 2000.]
  - [<sup>F5</sup>(f) any undetermined proposals published under section 113A of the Learning and Skills Act 2000, if those proposals are relevant proposals for the purposes of paragraph 3(2A);
  - (g) any undetermined proposals made under section 51 of the Further and Higher Education Act 1992, if those proposals are relevant proposals for those purposes; or
  - (h) any direction under section 71 of the Education Act 2002]
- (4) For the purposes of sub-paragraph (3) proposals are “undetermined” if they have not been withdrawn and—
- (a) they have not been approved or rejected under paragraph 3 [<sup>F6</sup>of this Schedule, under paragraph 8 or 9 of Schedule 7 or under Schedule 7 [<sup>F7</sup>or 7A] to the Learning and Skills Act 2000], or
  - (b) the authority have not determined under this paragraph whether to implement them, [<sup>F8</sup> or
  - (c) the Secretary of State has not made a decision as to whether or not to make an order under section 16 or 27 of the Further and Higher Education Act 1992,] as the case may be; and when deciding under sub-paragraph (3) whether any proposals are related to other proposals the authority shall have regard to any guidance given from time to time by the Secretary of State.

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- (5) Where, in the case of any proposals within sub-paragraph (1)—
- (a) the authority fail to make a determination under that sub-paragraph within the period mentioned in sub-paragraph (2), or
  - (b) the requirement to make such a determination does not apply by virtue of sub-paragraph (3),
- the proposals require approval under paragraph 3.

#### Textual Amendments

- F2** Word in Sch. 6 para. 4(3)(c) repealed (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 153, 154(3)-(5), **Sch. 11**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F3** Sch. 6 para. 4(3)(e) and the word preceding it inserted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 89(1)(2)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F4** Word in Sch. 6 para. 4(3)(d) repealed (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F5** Sch. 6 para. 4(3)(f)-(h) inserted (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(3)(b)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F6** Words in Sch. 6 para. 4(4)(a) substituted (28.7.2000 for specified purposes, 1.4.2001 for E. and otherwise *prosp.*) by 2000 c. 21, ss. 149, 154(3)-(5), **Sch. 9 para. 89(1)(3)**; S.I. 2001/654, art. 2, **Sch. Pt. II** (with art. 3)
- F7** Words in Sch. 6 para. 4(4)(a) inserted (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(4)(a)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F8** Sch. 6 para. 4(4)(c) and preceding word inserted (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(4)(b)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4

#### Requirement to implement proposals

- 5 (1) Where—
- (a) any proposals published under section 28, 29 or 31 have been approved under paragraph 3, or
  - (b) a local education authority have determined under paragraph 4 to implement any such proposals,
- then (subject to the following provisions of this paragraph) the proposals shall be implemented, in the form in which they were so approved or determined, in accordance with Part III of this Schedule.
- (2) At the request of any prescribed body or persons, the relevant committee—
- (a) may modify the proposals after consulting such persons or bodies as may be prescribed; and
  - (b) where any approval under paragraph 3 was given in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the event in question must occur.
- (3) If the relevant committee are satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under paragraph 3 that implementation of the proposals would be inappropriate,
- the committee may determine that sub-paragraph (1) shall cease to apply to the proposals.

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- (4) The committee may only make a determination under sub-paragraph (3) where proposals that they should do so have been published, in accordance with regulations, by the body or promoters who published the proposals referred to in sub-paragraph (1)(a) or (b); and regulations so made may provide for any of the provisions of sections 28, 29 and 31 and this Part of this Schedule to have effect in relation to any such further proposals with or without modifications.
- (5) If—
- (a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on any matter falling to be decided by them under this paragraph, and
  - (b) the body or promoters who published the proposals referred to in sub-paragraph (1)(a) or (b) request the committee to refer that matter to the adjudicator,
- they shall refer that matter to the adjudicator.
- (6) If the committee—
- (a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision, but
  - (b) have failed to reach such a decision on that matter,
- they shall refer that matter to the adjudicator.
- (7) Where any matter is referred to the adjudicator under sub-paragraph (5) or (6)—
- (a) he shall consider the matter afresh; and
  - (b) such of the provisions of sub-paragraphs (2) to (4) as are relevant shall apply to him in connection with his decision on that matter as they apply to the committee.
- (8) Where—
- (a) any approval under paragraph 3 was given in accordance with sub-paragraph (3) of that paragraph, and
  - (b) the event specified under that sub-paragraph does not occur by the date in question (whether as specified under that sub-paragraph or as specified under sub-paragraph (2)(b) above),
- sub-paragraph (1) above shall cease to apply to the proposals.
- (9) Where, by virtue of sub-paragraph (3) or (8), sub-paragraph (1) ceases to apply to any proposals, those proposals shall be treated for the purposes of this Schedule as if they had been rejected under paragraph 3.

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

- C5** Sch. 6 para. 5(4)(5) applied (with modifications) (E.) (1.9.2000) by [S.I. 1999/2213](#), [reg. 21\(3\)](#) (as inserted by [S.I. 2000/2198](#), [reg. 8](#))

**Commencement Information**

- II** Sch. 6 para. 5 wholly in force at 1.9.1999; Sch. 6 para. 5 not in force at Royal Assent see s. 145(3); Sch. 6 para. 5(4) in force for specified purposes at 1.2.1999 by [S.I. 1998/3198](#), [art. 2\(2\)](#), [Sch.](#); Sch. 6 para. 5 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](#)).

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