
STATUTORY INSTRUMENTS

1994 No. 1041

EDUCATION, ENGLAND AND WALES

The Education (Groups of Grant-maintained Schools) Regulations 1994

<i>Made</i>	- - - -	<i>8th April 1994</i>
<i>Laid before Parliament</i>		<i>8th April 1994</i>
<i>Coming into force</i>	- -	<i>1st May 1994</i>

In exercise of the powers conferred on the Secretary of State by sections 117(5), 127 (excluding subsection (5)(c)), 187(2), and 301(6) of the Education Act 1993(1), the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Education (Groups of Grant-maintained Schools) Regulations 1994 and shall come into force on 1st May 1994.

Interpretation

2. In these Regulations—

“the 1993 Act” means the Education Act 1993;

“departing school” means a school in a group in respect of which procedures have been initiated for the school to leave the group and not terminated (as initiated on that occasion);

“foundation school” means a grant-maintained school—

- (a) which was a voluntary school immediately before it became grant-maintained, or
- (b) which was established in pursuance of proposals published under section 49 of the 1993 Act;

(1) 1993 c. 35; for the definition of “prescribed” and “regulations” see section 305(1). Chapter IX of Part II of the 1993 Act has been modified by the Education (Groups including Grant-maintained Special Schools) Regulations 1994 (S.I.1994/779).

“grant–maintained school” includes a grant–maintained special school and references to “grant–maintained status” shall be construed accordingly;

“group” means a group of two or more grant–maintained schools conducted by a single governing body;

“hospital special school” means a maintained special school established in a hospital;

“maintained special school” means a special school maintained by a local education authority;

“participating school” means a school named in a motion or resolution or the subject of a ballot in respect of which the formation of a group with other participating schools is being considered;

“relevant age group” has the same meaning as in section 155(4) of the 1993 Act;

“relevant particulars” means the particulars specified in paragraph 4(1)(d) of Schedule 2 to these Regulations.

PART II

PROCEDURES FOR FORMING OR RE–FORMING GROUPS

Initiating procedure for schools to acquire grant–maintained status as newly formed groups

3.—(1) Subject to paragraph (2) below, where within a period of 28 days each of the governing bodies of the participating schools decide by resolution passed at a meeting of the governing body to hold a ballot of parents on the question whether grant–maintained status should be sought for their school as a member of a group of participating schools they shall in respect of their school–

- (a) secure that a ballot is held in accordance with regulation 6 within the period of 10 weeks beginning with the last resolution date;
- (b) give notice in writing that the ballot is to be held to the local education authority and, where a participating school is a voluntary school, to any person holding property on trust for the purposes of that school.

(2) Where a participating school is a hospital special school paragraph (1) above shall be read, in the case of that school, as if for the words “to hold a ballot of parents on the question whether” there were substituted the word “that” and for items (a) and (b) there were substituted the words “give notice in writing of their decision to the local education authority”; and in this regulation references to paragraph (1) include that paragraph as modified by this paragraph.

(3) Notice under paragraph (1) above must be given within the period of five days beginning with the last resolution date but in determining that period no account shall be taken of–

- (a) Saturday, Sunday, Good Friday and Christmas Day; or
- (b) any day which is a bank holiday in England and Wales.

(4) This regulation does not apply if in the case of the participating schools a ballot on the question whether grant–maintained status should be sought for those schools as a group has been held in accordance with regulation 6 within the period of 12 months ending with the date immediately preceding the last resolution date unless the Secretary of State gives consent in writing for a new ballot to be held.

(5) In this regulation “the last resolution date” means the latest date on which a governing body of a participating school passes the resolution referred to in paragraph (1) above.

Initiating procedure for schools to acquire grant–maintained status by joining an existing group

4.—(1) Where the governing body of a school which is eligible for grant–maintained status (not being a hospital special school) decide by a resolution passed at a meeting of that body–

- (i) to seek the consent of the governing body of a group to become a member of that group and, following such consent,
- (ii) to hold a ballot of parents on the question of whether grant–maintained status as an additional member of that group should be sought,

the governing body of that school shall within 14 days of the passing of that resolution give notice to the governing body of that group in writing of the terms of the resolution and seek the consent of the governing body of that group within 42 days of receipt of the notice.

(2) Where the governing body of a hospital special school which is eligible for grant– maintained status decide by a resolution passed at a meeting of that body to seek the consent of the governing body to become a member of that group they shall within 14 days of the passing of that resolution give notice to the governing body of the group in writing of the terms of the resolution and seek their consent within 42 days of receipt of the notice.

(3) The governing body of the group shall decide by a resolution passed at a meeting of that body within that period whether or not to consent to that school joining the group.

(4) If the resolution referred to in paragraph (3) is in favour of the school joining the group the governing body of the group shall give notice to the governing body of the school forthwith.

(5) The governing body of the school (not being a hospital special school) shall secure that a ballot is held in accordance with regulation 6 within the period of 10 weeks beginning with the date of the resolution of the governing body of the group referred to in paragraph (3) above.

(6) The governing body of the school shall give notice in writing that the ballot is to be held (or, in the case of a hospital special school notice in writing of their decision) to the local education authority and, where a participating school is a voluntary school, to any person holding property on trust for the purposes of that school.

(7) Notice under paragraph (6) above must be given within the period of five days beginning with the date on which the governing body of the school were notified of the resolution of the governing body of the group under paragraph (4) above, but in determining that period no account shall be taken of–

- (a) Saturday, Sunday, Good Friday and Christmas Day; or
- (b) any day which is a bank holiday in England and Wales.

(8) This regulation does not apply if a ballot on the question whether grant–maintained status should be sought for the school as a member of the group has been held in accordance with regulation 6 within the period of 12 months ending with the date immediately preceding the date of the resolution of the governing body of the group referred to in paragraph (3) above unless the Secretary of State gives consent in writing for a new ballot to be held.

Information

5.—(1) Where any registered parent of a registered pupil at a balloting school so requests in connection with the holding of a ballot under these Regulations, the governing body of that school shall–

- (a) make available to the parent for inspection (at all reasonable times and free of charge) at the school a list containing the name and address of every registered pupil at that school; and
- (b) supply the parent with a copy of the list.

(2) A governing body shall not disclose to a parent under paragraph (1) above the name and address of any person who has requested the governing body in writing not to disclose that information under that paragraph; and accordingly the name and address of that person shall be excluded from the list there mentioned.

(3) A governing body who in pursuance of paragraph (1) above supply copies of the list there mentioned may charge such fee as they think fit (not exceeding the cost of supply) in respect of each copy so supplied.

(4) In this regulation “balloting school” means a participating school under regulation 3(1) (other than a hospital special school), and a school whose governing body is under a duty to secure that a ballot is held by virtue of regulation 4 or 31.

Ballot of parents

6.—(1) Where the governing body of a school are under a duty by virtue of these Regulations to secure that a ballot is held they shall secure that all necessary arrangements for the ballot are made by such body as may for the time being be prescribed by regulations made under section 28(1) of the 1993 Act(2).

(2) The arrangements shall provide for a secret postal ballot.

(3) The governing body shall secure that the body referred to in paragraph (1) of this regulation take such steps as are reasonably practicable to secure that every person who is eligible to vote in the ballot is—

- (a) given the information in Part I or Part II of Schedule 1 to these Regulations;
- (b) informed that he is entitled to vote in the ballot; and
- (c) given an opportunity to do so.

(4) The governing body shall make available to every person employed to work at the school for inspection (at all reasonable times and free of charge) at the school a document containing the information required by paragraph (3)(a) above to be given to persons eligible to vote in the ballot.

(5) In determining the arrangements they require to be made by the body referred to in paragraph (1) above the governing body shall take into account any guidance given by the Secretary of State under section 28(5) of the 1993 Act and any guidance given by the Secretary of State from time to time as to arrangements he considers appropriate for ballots held in accordance with this regulation.

(6) Where the procedure has been initiated under regulation 3 or 4, the governing body may promote (otherwise than as part of the arrangements made for the ballot) the case for seeking grant-maintained status for the school both generally and as a member of a group and, in doing so, they shall take into account any guidance given by the Secretary of State under section 28(6) of the 1993 Act.

Eligibility

7.—(1) For the purposes of these Regulations a person is eligible to vote in a ballot held in respect of a school if he is a registered parent of a registered pupil at that school.

(2) In paragraph (1) above “registered” means shown in the register kept under section 80 of the Education Act 1944(3) as that register has effect on the date immediately following the end of the period of 14 days beginning with the last resolution date as defined in regulation 3(5) of these Regulations, or, as the case may be, the resolution of the governing body of the group referred to in regulation 4(3).

(2) The Regulations currently in force are the Education (Parental Ballots for Acquisition of Grant-maintained Status) (Prescribed Body) Regulations 1992 (S.I. 1992/2598).

(3) 1944 c. 31.

Announcement of the results of the first ballots

8. Where the procedure is initiated under regulation 3, the results of the first ballots in the case of each participating school shall be published on the same date as soon as is practicable after all the results are available.

Second ballot

9.—(1) Where in any ballot held in accordance with these Regulations (other than one held by virtue of this regulation)—

- (a) the total number of votes cast by persons eligible to vote is less than 50% of the number of persons eligible to vote; or
- (b) the number of votes cast in favour is the same as the number of votes cast against;

the governing body shall secure that a second ballot is held within the period of 14 days beginning with the date immediately after that on which the result of the ballot is published.

(2) In such a case—

- (a) the result of the first ballot shall be disregarded for the purposes of these Regulations;
- (b) regulation 6 shall apply save that—
 - (i) paragraph (3)(a) thereof shall be omitted,
 - (ii) paragraph (4) thereof shall be read as if the information there referred to were the information given for the purposes of the first ballot.

(3) This regulation shall not apply in respect of any participating school if in the case of each of the other participating schools—

- (a) the number of votes cast against was more than the number cast in favour; and
- (b) the total number of votes cast by persons eligible to vote is 50% or more of the number of persons eligible to vote.

Voiding ballots

10. Section 31 of the 1993 Act (power to declare ballot void for irregularity) shall apply to ballots held under regulation 6 as if—

- (a) the references to sections 28 and 30 in subsection (1)(a) and (1)(c) were to regulations 6 and 9 respectively,
- (b) in subsection 1(b) the words after “section 28” were omitted and there were substituted “of the 1993 Act and regulation 6”, and
- (c) the reference to section 29(1) in subsection (3) were to regulation 7(1).

Agreement between some participating schools to propose grant-maintained status as a group

11.—(1) This regulation applies where in the case of two or more (but not all) participating schools—

- (a) the results of the ballots held in accordance with these Regulations show in each case a simple majority of votes cast (by those eligible to vote in the ballot) in favour of seeking grant-maintained status as a group with the other participating schools; or
- (b) in the case of a hospital special school the governing body have passed a resolution in favour of seeking grant-maintained status as a member of a group with the other participating schools.

(2) The governing body of a participating school where there is in respect of that school a favourable vote or resolution as described in paragraph (1) may decide by resolution passed at a meeting of that body to seek grant-maintained status for their school with all or any of those other participating schools in respect of which there was a favourable vote as described in paragraph (1).

(3) Where the governing bodies of any such participating schools similarly so decide and agree to seek grant-maintained status for their school those governing bodies shall before the end of the period of four months beginning with the date referred to in paragraph (4) below publish proposals under regulation 12.

(4) The date referred to is the date of publication of the latest of the ballots or, in the case of a hospital special school, the latest resolution in respect of all the participating schools (whether or not the governing body have passed a resolution in accordance with paragraph (2) above).

Publication of proposals

12.—(1) Paragraph (2) of this regulation applies where—

- (a) (i) the results of ballots held in accordance with regulation 6 show a simple majority of votes cast (by persons eligible to vote in the ballot) in the case of each participating school in favour of seeking grant-maintained status with the other participating schools as a group; or
- (ii) where a participating school is a hospital special school, the governing body in each case have passed a resolution in favour of seeking grant-maintained status with the other participating schools as a group;
- (b) the result of a ballot held in accordance with regulation 6 following a resolution referred to in regulation 4(1) shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of seeking grant-maintained status for the school by joining an existing group;
- (c) the governing body of a hospital special school have passed a resolution in favour of seeking grant-maintained status for the school as an additional member of an existing group and the governing body of that group has passed a resolution in accordance with regulation 4(3); or
- (d) the circumstances described in regulation 11(3) apply.

(2) Before the end of the period of four months beginning with (as the case may be)—

- (a) the date of publication of the last of the ballots of the participating schools or, if later, the last of the resolutions referred to in paragraph (1)(a) above,
- (b) the date of publication of the result of the ballot referred to in paragraph (1)(b) above,
- (c) the resolution of the governing body of the group referred to in paragraph 1(c) above or,
- (d) the date referred to in regulation 11(4) above,

the governing bodies of the participating schools or, as the case may be, the governing body of the school which it is sought should join an existing group shall secure that—

- (i) proposals are published for acquisition of grant-maintained status for the school in accordance with provisions imposed by Schedule 2 to these Regulations; and
- (ii) any notice in respect of the proposals required by Schedule 2 is published.

(3) References in these Regulations to proposals published under these Regulations, in any case where the Secretary of State has modified such proposals, are to the proposals as so modified.

(4) For the purposes of these Regulations proposals published under these Regulations shall be regarded as pending in respect of a school until either the proposals are withdrawn or the Secretary of State makes his determination in respect of them.

Initiating procedure for a grant-maintained school to join a group

13.—(1) Where the governing body of a grant-maintained school decide by a resolution passed at a meeting of that body to seek the consent of the governing body of a group to become a member of that group they shall within 14 days of the passing of that resolution give notice to the governing body of that group in writing of the terms of the resolution and seek the consent of the governing body of that group within 42 days of receipt of the notice.

(2) The governing body of a group which receives notice under paragraph (1) above shall within 42 days of receipt of the notice decide by a resolution passed at a meeting of that body whether or not to consent to the school joining the group.

(3) If the resolution referred to in paragraph (2) above is in favour of the school joining the group the governing body of the group shall give notice to the governing body of the school forthwith.

(4) If the governing body of the school within 28 days of being notified by the governing body of the group in accordance with paragraph (3) above pass a second resolution confirming the resolution referred to in paragraph (1) above, the governing body of the school shall publish proposals in accordance with Schedule 2 to these Regulations.

Initiating procedure for grant-maintained schools to form groups

14. Where—

- (a) each of the governing bodies of the participating grant-maintained schools decide by a resolution passed at a meeting of the governing body to form a group with the other participating grant-maintained schools and at a further meeting of the governing body held not less than 28 days following the first meeting pass a resolution to the same effect (“the second resolution”); and
- (b) the second resolutions in respect of all the participating grant-maintained schools are all passed within a period of 28 days of each other,

the governing bodies shall each be under a duty to secure that proposals and any notices are published in accordance with Schedule 2.

Initiating procedure for groups to merge

15. Where—

- (a) each of the governing bodies of the participating groups decide by a resolution passed at a meeting of the governing body to form a group with the other participating groups and at a further meeting of the governing body held not less than 28 days following the first meeting pass a resolution to the same effect (“the second resolution”), and
- (b) the second resolutions in respect of all the participating groups are all passed within a period of 28 days of each other,

the governing bodies shall each be under a duty to secure that proposals and any notices are published in accordance with Schedule 2.

Approval, withdrawal or rejection of proposals

16.—(1) Proposals required to be published under regulations 12 to 15 may not be withdrawn except with the consent of the Secretary of State and subject to such conditions as he may impose (which may, in particular, require further proposals to be published under these Regulations within such period as the Secretary of State may specify).

(2) Subject to paragraph (5) the Secretary of State—

- (a) may reject any proposals referred to in paragraph (1);

- (b) where the schools in respect of which such proposals are made are eligible for grant-maintained status or have such status on the date of publication of the proposals, may approve them without modification or, after consultation with the existing governing bodies, approve them with such modifications as he thinks desirable.
- (3) Where the Secretary of State rejects any such proposals he may require the governing bodies or body to publish further proposals under these Regulations within such period as he may specify.
- (4) Where the Secretary of State imposes a requirement under paragraph (1) or (3) for the publication of further proposals regulation 12(2) and Schedule 2 to these Regulations shall apply as they apply in the case mentioned in regulation 12(1) but with the following modifications—
 - (i) the four month period referred to in regulation 12(2) shall be taken to refer to the period specified by the Secretary of State for submission of the further proposals required; and
 - (ii) the reference in paragraph 2(1)(a) of Schedule 2 to any ballot shall be taken to refer to the last ballot held in accordance with regulation 6 in relation to a then participating school before the requirement in question was imposed.
- (5) Where the Secretary of State modifies any proposals so as to exclude any of the schools from the proposals he may not approve them without the consent of the existing governing bodies of the schools to which the proposals as modified relate.

Incorporation

- 17.—(1) Where any proposals are approved under regulation 16 then—
 - (a) the persons who immediately before the proposals are approved are named as initial governors; and
 - (b) the existing headteachers of the proposed schools in the group or new group (except any that choose not to be governors ex officio) shall on that date be incorporated as the governing body of the group or new group under the name given in pursuance of paragraph 4(1)(g) of Schedule 2.
- (2) Where any proposals are approved under regulation 16 then, in relation to the period beginning with the incorporation date and ending immediately before the date of implementation of the proposals—
 - (a) references in Part II of Chapter II of the 1993 Act and in these Regulations to the new governing body shall be taken to include a governing body incorporated under this regulation; and
 - (b) any reference in any enactment or instrument or document to the governing body of a school or group, other than an express reference to the new governing body or the governing body incorporated under this regulation shall be read as a reference to the existing governing body of the school or group.
- (3) On the date of implementation of the proposals—
 - (a) any local education authority whose duty it was immediately before that date to maintain any of the schools included in the proposals as a county, voluntary or special school shall cease to have that duty; and
 - (b) any special agreement relating to any of the schools included in the proposals shall cease to have effect.

Exercise of powers before date of implementation of proposals

- 18.—(1) Section 35 of and Schedule 4 to the 1993 Act shall apply in relation to any new governing body incorporated by virtue of regulation 17 of these Regulations or any members of the body subject to the modification in paragraph (2) of this regulation.

(2) Paragraph 2(b) of Schedule 4 shall apply in relation to hospital special schools with the substitution of the words “property other than land” for the words “land and other property”.

Expenses in connection with proposals for acquisition of grant-maintained status

19. Section 36 of the 1993 Act shall apply in relation to the exercise by a governing body of their functions—

- (a) under regulations 3 to 5 and 11;
- (b) in relation to any ballot of parents on the question whether a school should acquire grant-maintained status as a member of a group; and
- (c) in relation to any proposals in consequence of such a ballot until their implementation.

Transfer of property – schools which are not grant-maintained

20.—(1) Section 38 of the 1993 Act shall apply where, in relation to any school, proposals for acquisition of grant-maintained status as a member of a group are approved, as if—

- (a) the reference in subsection (1) to the governing body incorporated under Chapter II were to the governing body incorporated under these Regulations; and
- (b) the reference in the fourth line of subsection (4) to the first governors of the school were to the core governors of the group.

(2) The properties rights and liabilities referred to in sections 38(1) of the 1993 Act shall be held or be treated as having been incurred by the new governing body on behalf of the school for whose purposes they were acquired or incurred and accordingly—

- (a) any property and rights shall be held for the benefit of that school; and
- (b) any liabilities shall be met out of capital or income which is held on behalf of or is attributable to that school.

(3) Section 38 of the 1993 Act is subject to the modification that subsection (1) shall not apply in the case of a hospital special school to any land used or held by the local education authority or by the existing governing body for the school.

Transfer of staff – schools which are not grant-maintained

21. Section 39 of the 1993 Act applies in relation to any school where proposals for acquisition of grant-maintained status as a member of a group are approved as if—

- (a) the reference in subsections (1)(b)(i) to “the school” were to one or more schools named in the proposals;
- (b) references to the grant-maintained school were to the group.

Transfer of property and staff: grant-maintained schools

22.—(1) This regulation applies where in relation to any school, proposals are approved for—

- (a) two or more grant-maintained schools to form a group; or
- (b) a grant-maintained school to join an existing group; or
- (c) the schools in two or more existing groups to become one group.

(2) The property rights and liabilities of the existing governing body or governing bodies shall on the date of implementation of the proposals be transferred to and by virtue of these Regulations vest in the new governing body incorporated under these Regulations.

(3) The properties rights and liabilities referred to in subsection (2) above shall be held or be treated as having been incurred by the new governing body on behalf of the school for whose purposes they were acquired or incurred and accordingly—

- (a) any property and rights shall be held for the benefit of that school; and
- (b) any liabilities shall be met out of capital or income which is held on behalf of or is attributable to that school.

(4) Without prejudice to paragraphs (2) and (3) above a contract of employment between the governing body of any grant-maintained school or the governing body of any group named in the proposals and any person shall have effect from the date of implementation of the proposals as if made between that person and the new governing body of the group.

(5) This regulation is without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change of employer effected by paragraph (4) above.

“Pending procedure”

23.—(1) For the purposes of Chapter III of Part II of the 1993 Act and for the purposes of these Regulations the procedure for acquisition of grant-maintained status as a member of a group is pending in relation to a school when it has been initiated in relation to the school on any occasion and not terminated (as initiated on that occasion).

(2) For these purposes, the procedure is to be regarded as initiated in relation to a school—

- (a) on any occasion on receipt by the local education authority of notice of a meeting of the governing body at which a motion under regulation 3 or 4 for a resolution to hold a ballot of parents on the question whether grant-maintained status should be sought for their school as a member of a group is to be considered; or
- (b) on any occasion on receipt by the local education authority of notice of a meeting of the governing body of a hospital special school at which a motion under regulation 3 or 4 for a resolution to apply for the school to acquire grant-maintained status as a member of a group is to be considered.

(3) For these purposes, that procedure, as initiated on any occasion, is to be regarded as terminated in respect of the school or the participating schools as the case may be—

- (a) when initiated as mentioned in paragraph (2) above if—
 - (i) the meeting is not held;
 - (ii) the meeting is held but the motion is not moved, or, though the motion is moved, the resolution is not passed;
 - (iii) the resolution is passed but one of the governing bodies of the participating schools fails to pass a similar resolution within the period referred to in regulation 3;
 - (iv) the resolution is passed, but the result of the ballot to which regulation 3 or 4 relate does not show a majority in favour of seeking grant-maintained status for the school as a member of a group;
 - (v) where a school is proposing to seek grant-maintained status as a member of an existing group and the governing body of that group have refused their consent to the school joining the group;
 - (vi) the result of the ballot or, in the case of a hospital special school, the resolution, in the case of all the other participating schools does not show a majority in favour of seeking grant-maintained status for any of those other participating schools; or
 - (vii) the result of the ballot or, in the case of a hospital special school, the resolution in the case of one or more other participating schools (but not all of them) shows a

majority in favour of seeking grant-maintained status for the school and the period referred to in regulation 11 has passed without the school acting in accordance with regulation 11(3);

- (b) if proposals are required to be published under regulation 12, or any proposals required in substitution for those proposals, are rejected by the Secretary of State or withdrawn, or
- (c) on the date of implementation of the proposals.

(4) Where regulation 9 applies in the case of such a ballot, the reference in paragraph (3) above to the result of that ballot shall be read as a reference to the result of the second ballot required by that regulation.

(5) The reference in sub-paragraph (3)(b) above to proposals required in substitution for any proposals (“the original proposals”) required to be published by reference to the result of a ballot is to any proposals required to be published by virtue of paragraph (1) or (3) of regulation 16 on withdrawal or (as the case may be) rejection of-

- (a) the original proposals; or
- (b) any further proposals required to be published by virtue of paragraph (1) or (3) of regulation 16 without a further ballot.

(6) Proposals published under regulation 12 shall not be treated for the purpose of sub-paragraph (3)(b) above as rejected in any case where the Secretary of State imposes a requirement under regulation 16(3) or as withdrawn in any case where he imposes a requirement under regulation 16(1) for the publication of further proposals.

PART III

GOVERNMENT OF GROUPS AND PROPOSED GROUPS

Application of Schedule 5 to the 1993 Act (Governing Bodies)

24. Schedule 5 to the 1993 Act shall apply in relation to a group as it applies in relation to a grant-maintained school with the following modifications:

- (a) paragraph 3 shall not apply;
- (b) for paragraph 6(1) there is substituted:

“Subject to paragraph 10 below, and except where sub-paragraph (4) or (5) below applies, core governors are to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument.”;
- (c) paragraph 6(2) shall be omitted;
- (d) for paragraph 6(3) there is substituted:

“The initial instrument of government must provide, except where sub-paragraph (4) or (5) below applies, for such a governor to hold office for such term as was specified in the proposals for a group or new group as the proposed term of office for such a governor.”;
- (e) for paragraph 6(4) there is substituted:

“Any additional core governor appointed in pursuance of provisions made in the instrument by virtue of section 124 of this Act is to hold office for such term (not being more than five years) as may be specified in the terms of the governor’s appointment.”;
- (f) or paragraph 6(5) there is substituted:

“Any core governor appointed in pursuance of provision made in the instrument by virtue of section 123 of this Act is to hold office for such term (not being less than five nor more than seven years) as may be specified in the terms of his appointment.”;

(g) for paragraph 9 there is substituted:

“The instrument for a group must provide that any externally appointed core governors may be removed from office by the person or persons who appointed them.”;

(h) for paragraph 10 there is substituted:

“(1) The instrument for a group must, until every initial governor has ceased to hold office, make the provision required by sub-paragraphs (2) and (3) below.

(a) (2) An initial governor of an elected category who was a governor of that category on the governing body of the group immediately before the incorporation date shall hold office for the remainder of his term of office on the former governing body, and

(b) an initial governor of an elected category who was elected under regulation 26 or elected or nominated under regulation 29 to hold office as such shall hold office for a term of four years.

(3) An initial core governor shall hold office for such term (not being less than five nor more than seven years) beginning with the incorporation date as may be specified in his proposed term of office in the proposals for a group or new group.”;

(i) in paragraph 12 for “Chapter V” there is substituted “Chapter IX”.

Application of Schedule 6 to the 1993 Act (Articles of Government)

25.—(1) Subject to paragraph (2) below, Schedule 6 to the 1993 Act shall apply to a grant-maintained school in a group as it applies to a grant-maintained school which is not in a group.

(2) When the school is a grant-maintained special school Schedule 6 to the 1993 Act shall apply as modified by any regulations in relation to such schools⁽⁴⁾.

Determination of initial teacher and parent governors

26.—(1) Where proposals are required to be published under regulation 12, 14 or 15 in respect of schools forming a new group or groups merging paragraphs (2) to (9) of this regulation apply for the purpose of determining the persons who are to be named in the proposals as proposed initial governors of any elected category.

(2) The existing governing bodies of the schools to be named in the proposals (not being hospital special schools) shall each be under a duty to secure that—

(a) the number of parent governors specified or to be specified in the proposals are elected by a single electorate consisting of registered parents of registered pupils at those schools (each such parent having the same number of votes); and

(b) the number of teacher governors specified or to be specified in the proposals are elected by a single electorate consisting of teachers at those schools (each such teacher having the same number of votes).

(3) The duty under paragraph (2) above shall be performed as soon as possible after it is known which schools are to be included in the proposals for the group.

⁽⁴⁾ See the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653): regulation 22 contains modifications.

(4) It shall be for the governing bodies of the schools to determine any question whether a person is a registered parent of a registered pupil or whether a person is a teacher at the school in question.

(5) Subject to the provisions of this regulation, it shall be for the governing bodies to make all necessary arrangements for, and to determine all other matters relating to, any such election.

(6) The powers conferred by paragraph (5) above include power to make provision as to qualifying dates but does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.

(7) An election of parent or teacher governors which is contested must be held by secret ballot and the information supplied to those entitled to vote shall include the following—

(a) in the case of candidates for teacher governor the school at which the teacher teaches and a statement to the effect that teacher governors have the same obligations in respect of all the schools in the group,

(b) in the case of parent governors the school with which the parent is most closely associated by virtue of his child's attendance at the school and a statement to the effect that parent governors have the same obligations in respect of all the schools in the group.

(8) The arrangements made under paragraph (5) above shall, in the case of an election of a parent governor, provide for every person who is entitled to vote to have an opportunity to do so by post or, if he so prefers, by having his ballot paper returned to one of the schools to be named in the proposals by a registered pupil at that school.

(9) Where the schools named or to be named in the proposals are all hospital special schools the parent governors to be named in the proposals shall be selected jointly by the existing governing bodies and, if they fail to agree on the selection, it shall be made by the Secretary of State or in accordance with directions given by him.

(10) Where proposals are required to be published under regulation 12 or 13 in respect of a school joining an existing group, the teacher and parent governors on the governing body of the existing group shall be named, respectively, as the initial teacher and parent governors in the proposals.

Determination of initial core governors

27.—(1) Subject to the provisions of this regulation the initial core governors shall be selected by the persons and in the manner specified or to be specified in the proposals for the appointment of core governors.

(2) Where proposals are required to be published under regulation 12 in respect of a group which is to include a school or schools which are county schools or maintained special schools the existing governing body of each such school shall each select one person to be an initial core governor.

(3) Where proposals are required to be published under regulation 14 and the schools named in the proposals include a school which was—

- (a) a county school immediately before becoming grant-maintained, or
- (b) a school established in pursuance of proposals published under section 48 of the 1993 Act, or
- (c) a maintained special school,

the existing governing body of each group shall select one core governor.

(4) Where proposals are required to be published under regulation 15 and the schools named in the proposals include a school which was—

- (a) a county school immediately before becoming grant-maintained, or
- (b) a school established in pursuance of proposals published under section 48 of the 1993 Act, or

(c) a maintained special school,

the existing governing body of each group shall select a number of core governors corresponding to the number of such schools in their group, if any.

(5) Where proposals are required to be published under regulation 12(1)(b) or regulation 13 and the schools named in the proposals include a school which was or is—

- (a) a county school, or
- (b) a county school immediately before becoming grant-maintained, or
- (c) a school established in pursuance of proposals published under section 48 of the 1993 Act, or
- (d) a maintained special school, or
- (e) a grant-maintained special school – then in such a case:
 - (i) the governing body of the school which it is proposed should join the group or, if such is a voluntary or foundation school, the person or persons named in the instrument of government as being entitled to appoint foundation governors, shall select one person to be an initial core governor on the governing body of the new group, and
 - (ii) the existing governing body of the group shall select any other core governors.

(6) The existing governing bodies of the schools named in the proposals shall in the cases referred to in paragraphs (2) to (4) above select any other core governors, who are not, under the proposals, to be externally appointed.

(7) The duties under paragraphs (1) to (6) shall be performed, if possible, before the date of publication of the proposals and, otherwise as soon as possible after that date.

(8) Any person selected under paragraphs (1) to (6) above shall, if possible, be named in the proposals as published as a proposed core governor.

(9) Where any selection under this regulation falls to be made by two or more persons, it shall be made by those persons acting jointly, and if they fail to agree on the selection, it shall be made by the Secretary of State or in accordance with directions given by him.

(10) Before selecting, or giving any direction as to the selection of, an initial core governor in a case where religious education in accordance with the tenets of a particular religion or religious denomination is given to pupils at the school in pursuance of section 27 or 28 of the Education Act 1944 (religious education at voluntary schools), the Secretary of State shall consult the persons appearing to him to be the appropriate authority of the religion or denomination concerned.

Notice of selection of core governors not named in proposals

28.—(1) In the case of any person selected in accordance with regulation 27 who is not named in the proposals as published, the existing governing bodies shall be under a duty to secure that—

- (a) the Secretary of State is given notice in writing of the relevant particulars in respect of the person selected before such date as may be specified in directions given by the Secretary of State; and
- (b) notice of his selection is published in the case of each school named in the proposals—
 - (i) by being posted at or near the main entrance to each school, or (if there is more than one main entrance) all of them, or in the case of a hospital special school, posted in at least one conspicuous place within the hospital;
 - (ii) by being posted in the same place within the area served by each school as that in which the proposals for acquisition of grant-maintained status for the school as a member of a group as published were posted in accordance with paragraph 1(1)(b) of Schedule 2 to these Regulations, and

(iii) by being made available for inspection at all reasonable times at the same place as that at which those proposals as published were made available for inspection in accordance with paragraph 1(1)(c) of that Schedule.

(2) A notice of the kind referred to in paragraph (1) above shall be published within seven days beginning with the date of the relevant selection.

(3) Where the Secretary of State is notified of any particulars under paragraph (1) above he shall modify the proposals by including in them the particulars notified to him.

Replacement of proposed initial parent and teacher governors before incorporation

29.—(1) Paragraphs (2) to (6) of this regulation apply where proposals published under regulation 12, 14 or 15 are pending in respect of schools forming a new group or groups merging.

(2) If a person named in the proposals as a proposed governor of an elected category who was elected under regulation 26 or this regulation—

- (a) dies;
- (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body; or
- (c) notifies the governing body that he is no longer willing to serve on the proposed governing body,

then, subject to paragraph 3, the governing bodies of the schools named in the proposals shall secure that a person is elected to hold office on the proposed governing body in his place.

(3) Where in a case to which paragraph (2) applies the Secretary of State is satisfied that it would not be reasonably practicable to hold an election in accordance with that paragraph in the time available, he shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated by the existing governing bodies of the schools named in the proposals.

(4) If a person named in the proposals as a proposed governor of an elected category who was nominated by the existing governing body under this regulation—

- (a) dies;
- (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body; or
- (c) notifies the governing body that he is no longer willing to serve on the proposed governing body,

the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede), the relevant particulars in respect of a person nominated by the existing governing bodies of the schools named in the proposals.

(5) References in this regulation to a person named in the proposals include any person required to be so named.

(6) The existing governing bodies of the schools named in the proposals shall secure that—

- (a) the Secretary of State is given notice in writing of the occurrence of any event within paragraph (2) or (4) above;
- (b) any nomination required for the purpose of this regulation is made;
- (c) notice is given in writing to the Secretary of State of the relevant particulars in respect of any person nominated under this regulation.

(7) Where any proposals under regulation 12 or 13 for a school to join a group are pending, the governing body of the existing group shall notify the Secretary of State in writing of any change

in the composition of an elected category on that body and of any relevant particulars in relation thereto and the Secretary of State shall modify the proposals accordingly.

Replacement of initial core governors before incorporation

30.—(1) Where proposals published under regulations 12 to 15 are pending and a person selected to be a core governor—

- (a) dies;
- (b) becomes prospectively disqualified for holding office as such a governor on the proposed governing body; or
- (c) notifies the governing body that he is no longer willing to serve on the proposed governing body,

the Secretary of State shall modify the proposals by including in them (in substitution, where appropriate, for any particulars they supersede) the relevant particulars in respect of a person nominated in substitution for that person by the person or persons entitled to select that person.

(2) The existing governing bodies of the participating schools shall secure that—

- (a) notice is given to the Secretary of State in writing of the occurrence of any event within paragraph (1) above;
- (b) any nomination is made for the purposes of this regulation, and
- (c) written notification of the relevant particulars in respect of any person nominated under this regulation.

PART IV

PROCEDURE FOR A SCHOOL TO LEAVE A GROUP

Initiating procedure for leaving a group

31.—(1) This regulation applies where the governing body of a group receive a written request to hold a ballot of parents on the question whether a school (not being a hospital special school) should seek to leave that group.

(2) A request under paragraph (1) must be signed (or otherwise endorsed in such manner as the governing body may require) by a number of registered parents of registered pupils at the school equal to at least 20% of the number of registered pupils at the school; and in this sub-paragraph “registered” means shown in the register kept under section 80 of the Education Act 1944 as that register has effect on the date on which the request is received.

(3) The governing body shall—

- (a) secure that the ballot is held in accordance with regulation 6 within the period of 10 weeks beginning with the date on which the request was received, and
- (b) if the school is a foundation school give notice that the ballot is to be held to any person holding property on trust for the purposes of the school.

(4) Notice under paragraph 3(b) must be given within the period of 5 days beginning with the date on which the request was received; but in determining that period no account shall be taken of—

- (a) Saturday, Sunday, Good Friday, and Christmas Day or
- (b) any day which is a bank holiday in England and Wales.

(5) Paragraph (3) does not apply if in the case of the school in question a ballot has been held on the question whether the school should leave the group of which it is a member within the period

of 12 months ending with the date immediately preceding the date on which the request is received, unless the Secretary of State gives consent in writing for a new ballot to be held.

(6) A request under paragraph (1) shall be taken to have been received by a governing body if given or sent to the chairman of the governing body or to the clerk of the governing body.

(7) Section 27 of the 1993 Act (information to parents of registered pupils) shall apply if a request is made by a parent of a registered pupil at a school in connection with any proposal that a ballot should be held under this regulation in respect of that school.

(8) Section 28 of the 1993 Act shall apply in relation to the duty to hold any ballot under this regulation as if the reference in subsection (3)(a) to the prescribed information were to the information contained in Part II of Schedule 1 to these Regulations and the reference in subsection (6) were to the case for the school leaving the group and becoming a grant-maintained school outside the group.

(9) Section 29 of the 1993 Act applies as if the reference to the relevant resolution or request were to a request under paragraph (1) above.

(10) Sections 30 and 31 of the 1993 Act shall apply to any ballot held under this regulation.

Procedure for hospital special school to leave a group

32. Where the governing body of a group decide by a resolution passed at a meeting of the governing body that a hospital special school should leave the group and at a further meeting of the governing body held not less than 28 days following the first meeting pass a resolution to the same effect they shall publish proposals in accordance with regulation 33 below.

Publication of proposals for leaving a group

33.—(1) Paragraph (2) applies where the result of a ballot held in accordance with regulation 6 shows a simple majority of votes cast (by persons eligible to vote in the ballot) in favour of a school leaving a group, or where a second resolution has been passed in accordance with regulation 32.

(2) Before the end of the period of four months beginning with the date on which the result of the ballot is determined or, as the case may be, the second resolution is passed in accordance with regulation 32 the governing body of the group shall—

- (a) publish proposals for the school to continue as a grant-maintained school outside the group in accordance with Part I of Schedule 3 to the 1993 Act with the modifications referred to in paragraph (5) below,
- (b) publish any notice in respect of the proposals for the time being required by any such provision, and
- (c) submit to the Secretary of State a copy of the published proposals.

(3) The duty under paragraph (2) above also applies in respect of a school in the group where that school would otherwise be the only school in the group in respect of which no proposals to leave the group are published.

(4) In these Regulations references to proposals published under this regulation include references to any proposals which have been modified by the Secretary of State.

(5) The modifications to Schedule 3 to the 1993 Act are—

- (a) for paragraph 1(3)(c) there is substituted:
 - “(c) state that, if the proposals are approved, the school will cease to be a member of the group of schools named in the proposals.”;
- (b) for paragraph 2(1)(b) there is substituted:

- “(b) state whether the school was a county, controlled, aided, maintained special or special agreement school immediately before it became grant– maintained, or, if established as a grant–maintained school, by whom it was established.”;
- (c) in paragraph 3(b) add at the end the words “outside the group”;
- (d) for paragraph 5(b) there is substituted:
 - “(b) any person holding property on trust for the purpose of any school in the group.”.

Approval of proposals for leaving a group

34.—(1) Proposals published under regulation 33 may not be withdrawn except with the consent of the Secretary of State and subject to such conditions as he may impose (which may, in particular, require further proposals to be published under that regulation within such period as the Secretary of State may specify).

- (2) The Secretary of State–
 - (a) may reject any proposals published under regulation 33; or
 - (b) may approve them without any modification or, after consulting with the existing governing body, approve them with such modification as he thinks fit.

Incorporation of governing body of a school leaving a group

35.—(1) Subsections (1) and (2) of section 34 of the 1993 Act shall apply in relation to proposals approved under regulation 34 as they apply to proposals approved under section 33 of that Act.

(2) On the date of implementation of the proposals the governing body of the group shall cease to be the governing body of the school.

Incorporation of governing body of remaining group

36.—(1) Where any proposals are approved under regulation 34, then on the date of their implementation, (except where such proposals, as approved, are for all the schools in the group to leave the group)–

- (a) the persons who, immediately before that date are on the existing governing body excluding any person to whom paragraph (2) applies,
- (b) the existing head teachers of the group (as governors ex officio), unless any choose not to be, and
- (c) any other person named in the proposals as a member of the new governing body of the group,

shall on that date be incorporated as the new governing body of the group under the name given in pursuance of paragraph 4(1)(g) of Schedule 2 to these Regulations.

- (2) This paragraph applies to any person on the existing governing body who–
 - (a) is an externally appointed core governor in respect of the departing school;
 - (b) has given notice of his intention to resign from the governing body of the group on the implementation of the proposals, or
 - (c) has not been selected in the circumstances described in paragraph (2) of regulation 44.
- (3) On the date of implementation of the proposals the existing governing body shall be dissolved.

Exercise of powers before proposed date of implementation

37. Paragraphs 1 to 6 of Schedule 4 to the 1993 Act shall apply in relation to the exercise of powers by the new governing body of the departing school or any members of that body in relation to any schools where proposals are approved under regulation 33.

Transfer of property

38.—(1) Where in relation to any school, proposals for leaving a group are approved the property, rights and liabilities mentioned in paragraph (2) below of the governing body of the group shall on the date of implementation of the proposals be transferred and by virtue of these Regulations vest in the new governing body of the school incorporated under these Regulations.

(2) The property, rights and liabilities referred to in subsection (1) above are—

- (a) all land or property, which, immediately before the date of implementation of the proposals, was property used or held by the existing governing body for the purposes of the school, and
- (b) all rights and liabilities subsisting immediately before the date of implementation of the proposals which were acquired or incurred by the existing governing body for those purposes.

(3) For the purposes of this regulation, any interest in a dwelling-house which, immediately before the date of implementation of the proposals, is used or held for occupation by a person employed to work at the school shall be treated as an interest used or held for the purposes of the school.

(4) This regulation is subject to section 198 of the Education Reform Act 1988 and Schedule 10 to that Act and references in that Schedule as applied by this regulation to the transfer date are to the date of implementation of the proposals.

(5) Any property, rights and liabilities of the existing governing body not passing under the preceding paragraphs of these Regulations shall, on the date of implementation of the proposals, vest in the new governing body of the group.

(6) If as a result of the implementation of the proposals, there remains no schools in the group, any properties, rights and liabilities of the existing governing body not passing under paragraphs (1) to (4) above shall pass to all or any of the new governing bodies of the schools in the group immediately before the implementation of the proposals (“the new governing bodies”)—

- (a) in accordance with any agreement between all the new governing bodies, or
- (b) in default of such agreement, in accordance with the direction of the Secretary of State, and pending such agreement or direction shall pass to all the new governing bodies to be held jointly.

Transfer of staff in respect of a school leaving a group

39.—(1) This regulation applies to any school in respect of which proposals for that school to leave a group have been approved and, subject to paragraph (3) below, applies to any person who immediately before the date of implementation of the proposals—

- (a) is employed by the existing governing body to work solely at the school, or
- (b) is employed by the existing governing body to work at the school and is designated for the purposes of this regulation by an order made by the Secretary of State.

(2) A person employed by the existing governing body in connection with the provision of meals shall not be regarded for the purposes of paragraph (1)(a) above as employed to work solely at a school unless the meals are provided solely for consumption by persons at the school.

(3) This regulation does not apply to—

- (a) any person employed as mentioned in paragraph (1) above whose contract of employment terminated on the day immediately preceding the date of implementation of the proposals, or
 - (b) any person employed as mentioned in paragraph (1) above who before that date—
 - (i) has been appointed or assigned by the existing governing body to work solely at another school as from that date, or
 - (ii) has been withdrawn from work at the school with effect as from that date.
- (4) A person who before the date of implementation of the proposals has been appointed or assigned by the existing governing body to work at the school as from that date shall be treated for the purposes of this regulation as if he had been employed by that body immediately before that date to do such work at the school as he would have been required to do on or after that date under his contract of employment with the existing governing body.
- (5) The contract of employment between a person to whom this regulation applies and the existing governing body shall have effect from the date of implementation of the proposals as if originally made between him and the governing body of the school.
- (6) Without prejudice to paragraph (5) above—
- (a) all the existing governing bodies' rights, powers, duties and liabilities under or in connection with the contract of employment shall be transferred to the governing body of the school on the date of implementation of the proposals;
 - (b) anything done before that date by or in relation to the existing governing body shall be deemed from that date to have been done by or in relation to that governing body.
- (7) This regulation is without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such rights shall arise by reason only of the change in employer effected by these Regulations.
- (8) An order under this regulation may designate a person either individually or as a member of a class or description of employees and shall be made in the same way as an order made under section 39(1)(b)(ii) of the 1993 Act⁽⁵⁾.

Transfer of staff to new governing body of group

- 40.**—(1) Subject to regulation 39, a contract of employment between any person and the existing governing body of the group shall have effect from the date of implementation of the proposals as if originally made between him and the new governing body of the group.
- (2) This regulation is without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such rights shall arise by reason only of the change in employer effected by these Regulations.

Determination of initial parent and teacher governors of a school leaving a group

- 41.**—(1) Where proposals are required to be published under regulation 32 this regulation applies for the purpose of determining the persons who are to be named in the proposals as proposed initial governors of any elected category in respect of the departing school.
- (2) Any person who on the date of publication of the proposals is an eligible governor of an elected category on the existing governing body shall be named in the proposals as published as a proposed initial governor of that category.
- (3) If the number of governors of any elected category to be named in the proposals in accordance with paragraph (2) is less than the number to be specified in the proposals the existing governing

(5) For the making of orders under that section see section 301(1) and (2) of the 1993 Act.

body shall secure that the remainder are elected by registered parents of registered pupils at the school or, as the case may be, by teachers at the school.

(4) The duty under paragraph (2) above shall be performed before the proposals are published or, as soon as possible thereafter.

(5) It shall be for the governing body to determine any question as to whether a person is a registered parent of a registered pupil or whether a person is a teacher at the school.

(6) Subject to the provisions of this regulation, it shall be for the governing body to make all necessary arrangements for, and to determine, all other matters relating to any such election.

(7) The powers conferred by paragraph (6) above include power to make provision as to qualifying date but does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.

(8) An election of parent or teacher governors which is contested must be held by secret ballot.

(9) The arrangements under paragraph (6) above shall, in the case of an election of a parent governor, provide for every person who is entitled to vote to have an opportunity to do so by post or, if he so prefers, by having his ballot paper returned to the school by a registered pupil at that school.

(10) For the purposes of this regulation an eligible governor of an elected category means a person who—

- (a) was at the time of his most recent election or appointment a registered parent of a registered pupil at the departing school or is a teacher at that school,
- (b) is a governor of an elected category on the existing governing body whose term of office as a governor is due to end after the date of implementation of the proposals, and
- (c) has notified the existing governing body that he is willing to serve on the proposed governing body and has not withdrawn that notification.

Determination of initial governors in respect of a school leaving a group

42.—(1) Sections 73, 74 and 75 of the 1993 Act shall apply in relation to proposals required to be published under regulation 33 with the following modifications—

- (a) references to a county school shall be to a school which immediately before it acquired grant-maintained status was a county or a maintained special school or to a school established pursuant to proposals published under section 48 of the 1993 Act, and
- (b) references to a voluntary school shall be to a foundation school.

Notice to the Secretary of State of subsequent governors

43. Where an election or appointment required for determining a proposed initial governor of any category in respect of a departing school is held or made in respect of a person who is not named in the proposals published under regulation 33, the existing governing body shall give the Secretary of State notice in writing of the relevant particulars in respect of the person elected or appointed.

Determination of initial governors on the governing body of the new group

44.—(1) Any person who on the date of publication of proposals under regulation 33 is a governor on the existing governing body shall be named in the proposals as a governor on the governing body of the new group unless—

- (a) he is an externally appointed core governor in respect of the departing school,
- (b) he has notified the existing governing body that he will not be willing to serve on the new governing body of the group and has not withdrawn that notification, or

(c) he is not selected in the circumstances described in paragraph (2) below.

(2) If the number of parent governors or core governors on the existing governing body on the date of publication of the proposals (after deducting the relevant number of governors specified in items (a) and (b) in paragraph (1) above) exceeds the number of governors in that category specified in the proposals, the existing governing body shall select the number of governors required in that category from those on the governing body.

PART V

ALTERATION AND DISCONTINUANCE OF GRANT- MAINTAINED SPECIAL SCHOOLS IN GROUPS

Modification of the 1993 Act

45.—(1) Subsections (4) and (5)(b) and (c) of section 183 of the 1993 Act shall apply to the governing body of a group in relation to a grant-maintained special school in that group.

(2) Section 183(6) and any regulations made thereunder(6) and section 184 of the 1993 Act shall apply in relation to any prescribed alterations(7) under section 183(4) to a grant-maintained special school in a group or to the discontinuance of such a school.

(3) Subsections (2) to (6) of section 185 of the 1993 Act shall apply in relation to alterations to a grant-maintained special school in a group to the same extent as those subsections apply to a grant-maintained special school which is not in a group.

(4) Subsections (7) and (8) of section 188 of the 1993 Act shall apply to a grant-maintained special school in a group as it applies to a grant-maintained special school which is not in a group.

(6) See the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653): regulations 26 and 27.

(7) See regulation 24 of the above Regulations.

SCHEDULE 1

Regulation 6

INFORMATION TO BE GIVEN TO PERSONS ELIGIBLE TO VOTE

PART I

Ballot in connection with procedure for acquisition of grant-maintained status as a member of a group

1.—(1) The information to be given to every person eligible to vote in the ballot shall be such information about the procedure and consequences of acquisition of grant-maintained status for the school as a member of a group as may reasonably be expected to enable him to form a proper judgment as to whether or not such status should be sought for the school, including, in particular, the information required in paragraph 2(2) below.

(2) The information referred to in paragraph (1) above is—

- (a) a general explanation of the provisions of Part II of the 1993 Act and of these Regulations relating to—
 - (i) the procedure for acquisition of grant-maintained status as a member of a group of participating schools, or, as the case may be, as a new member of an existing group,
 - (ii) the constitution and powers of the governing body of a group of grant-maintained schools, and
 - (iii) the conduct and funding of schools within such a group;
- (b) a general description of the likely composition of the governing body of the group if the ballot is in favour of seeking grant-maintained status in the case of all the participating schools or, as the case may be, in the case of the school becoming a new member of the group;
- (c) an explanation of how and in what circumstances initial governors of each category are elected, or, as the case may be, selected or replaced;
- (d) where the procedure was initiated under regulation 3 an explanation to the effect that if in the case of some but not all of the participating schools there is a vote in favour of seeking grant-maintained status, the governing bodies of any two or more of those schools may decide to bring forward proposals for a group of their schools without a further ballot of parents;
- (e) the name, address and a brief description of the character of each of the participating schools or, as the case may be, the school which it is sought should join the group and the schools in the existing group;
- (f) where the procedure was initiated under regulation 3 the name and address of the headteacher of each of the participating schools and an indication, in each case, whether or not the headteacher proposes that he should be a member of the governing body of the group;
- (g) where the proposals initiated under regulation 4—
 - (i) the name and address of the headteacher of each of the schools in the group and, in each case, whether the headteacher is a member of the governing body of the group,
 - (ii) the name and address of the headteacher of the school in respect of which the procedure has been initiated and an indication whether or not the headteacher proposes that he should be on the governing body of the group; and

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- (h) the proposed implementation date which will be included in any proposals if the relevant ballot or ballots are in favour.

PART II

Ballot in connection with procedure for leaving a group and becoming a separate grant-maintained school

2.—(1) The information to be given to any person eligible to vote in the ballot shall be such information about the procedures to be followed for a school to leave a group and the consequences for the school of leaving the group as may reasonably be expected to enable him to form a proper judgment as to whether or not the school should leave the group, including, in particular, the information required in paragraph (2) below.

(2) The information referred to in paragraph (1) above is—

- (a) a general explanation of the provisions of these Regulations relating to—
 - (i) the procedures for a school to leave a group,
 - (ii) the constitution and powers of the governing body of an individual grant-maintained school compared with those of the governing body of a group, and
 - (iii) the conduct and funding of such a school compared with the conduct and funding of schools within a group;
- (b) the number of—
 - (i) initial teacher governors,
 - (ii) initial first or (as the case may be) foundation governors, and
 - (iii) in the case of a primary school initial parent governors,that will be specified in any proposals for the school to become an individual grant-maintained school outside a group if the result of the ballot is favourable;
- (c) the name of any person to be specified as a sponsor of the school in each such proposal, and the number of proposed initial sponsor governors to be appointed by him;
- (d) the names and addresses of the persons, so far as ascertained, to be included in any such proposals;
- (e) an explanation of the requirements applicable under the 1993 Act and these Regulations where—
 - (i) the determination of an initial governor of an elected category is pending on the date of publication of proposals for a school to leave a group, or
 - (ii) a proposed initial first, foundation, or sponsor governor has not been selected on the date of publication of any such proposal;
- (f) an explanation of—
 - (i) the circumstances in which a person named as a proposed initial governor in any such proposals may be replaced under these Regulations, and
 - (ii) the procedures applicable in each case in which a replacement is required; and
- (g) the date which will be included in any proposals for the school to leave the group as the proposed date of implementation of the proposals if the result of the ballot is in favour.

SCHEDULE 2

Regulations 12 to 15

PUBLICATION OF PROPOSALS AND NOTICE

1.—(1) Where proposals are required to be published under regulations 12 to 15, they shall be published by being—

- (a) posted at or near the main entrance (or if there is more than one main entrance, all of them) of each of the schools named in the proposals or, in the case of a hospital special school, posted in at least one conspicuous place within the hospital,
- (b) posted in at least one conspicuous place within the area or each of the areas served by those schools, and
- (c) made available for inspection at all reasonable times at each such school or at any other place within those areas to which members of the public may conveniently have access.

(2) Within the period of 10 days beginning with the first date on which the proposals are published in one or more newspapers circulating in the area or, as the case may be, the areas served by the schools named in the proposals, a notice in respect of the proposals containing such summary of the proposals as the governing bodies of the schools named in the proposals may think appropriate (including, in particular, the information required by sub-paragraph (3) below).

(3) The notice shall—

- (a) state—
 - (i) that proposals for acquisition of grant-maintained status as a group have been published and submitted to the Secretary of State and shall give the names and addresses of the schools which are proposed to form the group, or
 - (ii) that proposals for acquisition of grant-maintained status as an additional member of an existing group have been published and shall give the name and address of that school and the schools in the existing group, or
 - (iii) that proposals for a grant-maintained school as an additional member of an existing group has been published and shall give the name and address of that school and the schools in the existing group, or
 - (iv) that proposals for a new group to be formed out of the schools in two or more existing groups have been published and shall give the names of all those schools, or
 - (v) that proposals for grant-maintained schools to form a group have been published and shall give the names of those schools,
- (b) specify the proposed date of implementation of the proposals,
- (c) name any school included in the proposals which is not a grant-maintained school and state that if the proposals are approved in respect of that school it will on that date cease to be maintained by the local education authority,
- (d) state that, if the proposals are approved, the schools will on and after that date be conducted by one governing body incorporated under these Regulations and receive annual grants from the funding authority,
- (e) give the information required to be specified in the proposals as to the arrangements adopted, or proposed to be adopted if the proposals are approved, in respect of the admission of pupils to the school,
- (f) explain the effect of paragraph 5 below.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Statement to be annexed to proposals

2.—(1) There shall be annexed to any proposals published under regulations 12 to 15 a statement which shall, in respect of each school named in the proposals—

- (a) state the result of any ballot, giving the number of votes cast in favour of seeking grant-maintained status for the school as a member of a group, the percentage of those eligible to vote who voted, and the number of votes cast against,
- (b) state, in the case of a school which is not grant-maintained, whether the school is a county, controlled, aided, special agreement or maintained special school, and in the case of a school which is grant-maintained, that fact, and whether it has first or foundation governors,
- (c) state, in the case of an existing group, by whom the governors are appointed,
- (d) briefly describe the existing character of the school including, in the case of a school which has a particular religious character, that character and the religion or religious denomination (if any) in accordance with whose tenets religious education is provided, and
- (e) state the number of pupils for whom accommodation can be provided at the school.

(2) Any such statement so annexed shall be treated for the purposes of regulations 12 to 15 and of paragraph (1) above as forming part of the proposals.

Statement to accompany published proposals

3. Any proposals published under regulations 12 to 15 shall be accompanied by a statement which shall—

- (a) describe the requirements of these Regulations as to the membership of the governing body of a group of grant-maintained schools,
- (b) state that the headteacher of each school which forms a group will be a governor of the school ex-officio unless he decides not to be,
- (c) explain the circumstances in which a person named in the proposals as a proposed initial governor may be replaced under these Regulations,
- (d) explain the procedure applicable under these Regulations in each case in which such a replacement is required,
- (e) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, explain the requirements applicable under these Regulations in any such case,
- (f) explain the effect of paragraph 5 below.

Details of proposals

4.—(1) Any proposals published under regulation 12 shall—

- (a) specify the number of core governors proposed for the governing body and how they are appointed,
- (b) specify the number of initial parent and teacher governors proposed for the governing body,
- (c) give the name of the person who is the headteacher of each of the schools named in the proposals on the date of publication of the proposals and an indication in each case whether he proposes to be a member of the governing body,
- (d) give the following particulars in respect of each person required by these Regulations to be named in the proposals as published as a proposed initial governor—

- (i) his name and address,
 - (ii) whether he is to be a parent or teacher governor, or a core governor and, if a core governor, by whom he has been selected,
 - (iii) if he is to be a parent or teacher governor, the term of office that applies in his case under paragraph 10 of Schedule 5 to the 1993 Act, and
 - (iv) if he is to be a core governor, the term of office proposed for him in accordance with that paragraph,
- (e) give the names of any proposed initial core governors selected by the existing governing body of a school under regulation 27, any externally appointed core governors appointed in respect of a school and name the school, in each case,
 - (f) if the determination of an initial governor of an elected category is pending on the date of publication of the proposals, state that fact and refer to the explanations given in the statement accompanying the proposals,
 - (g) give the name under which it is proposed that the governing body should be incorporated,
 - (h) specify the proposed date of implementation of the proposals.
- (2) The proposals shall describe, in the case of each school named in the proposals, the arrangements it is proposed to adopt, in respect of—
- (a) the admission of pupils to the school (except in the case of a hospital special school),
 - (b) the provision to be made at the school for pupils who have special educational needs, and
 - (c) the induction of newly qualified teachers at the school and the in-service training and professional development of teachers at the school.
- (3) In giving the information required by sub-paragraph (2)(a) above, the proposals shall in particular specify the number of pupils proposed to be admitted to the school in each relevant age group in the first school year beginning on or after the proposed date of implementation of the proposals.

Objections to proposals

5. Within the period of two months beginning with the date of publication of any proposals in accordance with regulation 12, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any 10 or more local government electors for an area in which any of the schools named in the proposals is situated,
 - (b) any persons holding property on trust for the purposes of any of the schools named in the proposals,
 - (c) the governing body of any school affected by the proposals, and
 - (d) any local education authority concerned.

8th April 1994

Eric Forth
Parliamentary Under Secretary of State
Department for Education

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8th April 1994

Wyn Roberts
Minister of State Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made primarily under section 127 of the Education Act 1993, lay down the procedure for schools maintained by local education authorities to become grant-maintained schools or grant-maintained special schools either in a new group or by joining an existing group. The Regulations also provide for existing grant-maintained schools to group together, for a grant-maintained school to join an existing group, and for groups to merge.

In the case of schools which are not yet grant-maintained, the procedure to be followed is analogous to that applicable to a school becoming grant-maintained on its own. In particular (except in the case of hospital special schools) separate ballots are required at all the participating schools, where a new group is being considered, or at the school which is considering becoming grant-maintained by joining a group. The procedure is initiated by resolution of the governing body of the school or schools concerned. The procedure cannot be initiated by a parental petition.

Where the ballots at all the participating schools are favourable the governing bodies are all under a duty to publish proposals. Where the ballots are favourable in the case of some of the schools the Regulations lay down a procedure enabling any of those schools to group together without a further parental ballot.

Two resolutions of the governing body (but not a parental ballot) are required in the case of schools (other than hospital special schools) which are already grant-maintained and who wish to form a group or join an existing group. Existing groups may also resolve to merge. In all these cases proposals require the approval of the Secretary of State.

The Regulations provide for incorporation of the governing bodies of groups and new groups and for transfer of property and staff.

Finally the Regulations provide for a school to leave a group. The procedure is initiated by parental petition and followed by parental ballot. If the ballot is in favour, the proposals require the approval of the Secretary of State.