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STATUTORY INSTRUMENTS

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**1995 No. 3114**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Government Changes for England  
(Local Management of Schools) Regulations 1995**

*Made* - - - - 27th November 1995  
*Laid before Parliament* 8th December 1995  
*Coming into force* - - 31st December 1995

In exercise of the powers conferred by sections 19 and 26(4) of the Local Government Act 1992,<sup>(1)</sup> the Secretary of State hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Government Changes for England (Local Management of Schools) Regulations 1995 and shall come into force on 31st December 1995.

(2) In these Regulations, unless the context otherwise requires —

- (a) “an existing LEA” means a transferor authority or a transferee authority which in each case was a local education authority immediately before the making of these Regulations and whose area is or will be altered (but not abolished) pursuant to a structural or a boundary change;
- (b) “a new LEA” means a transferee authority, which was not in existence immediately before the making of these Regulations or, if it was in existence, was not a local education authority, which will, pursuant to a structural change or as the result of its establishment as the council of a county, become a local education authority;
- (c) “financial year” means a period of twelve months ending with 31st March;
- (d) “the reorganisation date” in relation to an authority means the date (being 1st April in any year) which is specified as such in relation to that authority in a section 17 order;
- (e) “a section 17 order” means an order made under section 17 of the Local Government Act 1992<sup>(2)</sup>; and
- (f) (i) any reference to a transferor authority is a reference to a local education authority which, by or in consequence of a structural or boundary change (or both such

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(1) 1992 c. 19.

(2) Section 17 was amended by section 39(4) and (5) of the Police and Magistrates' Courts Act 1994 (c. 29).

changes) effected by a section 17 order, ceases to exercise functions in relation to an area on the reorganisation date, and

- (ii) any reference to a transferee authority is a reference to an authority by which such functions are exercisable in relation to that area on and after that date.

(3) Functions conferred on an authority by virtue of these Regulations shall be exercisable from whichever is the later of —

- (a) the date that these Regulations come into force;  
 (b) the date that a section 17 order is first made in respect of that authority; or  
 (c) the date that that authority is established.

### **New LEAs: Period before reorganisation date**

2.—(1) The provisions of Chapter III of Part I of the Education Reform Act 1988<sup>(3)</sup> (finance and staff) referred to in paragraph (2) below, and regulations made thereunder, shall apply to a new LEA in the period before the reorganisation date as if they were the local education authority for the area for which they will become the local education authority on that date.

(2) The provisions referred to in paragraph (1) above are sections 33, 34, 35<sup>(4)</sup>, 38, 39<sup>(5)</sup>, 41, 42, 42A<sup>(6)</sup>, 43<sup>(7)</sup>, 48 and 51(1) and (2) of, and paragraphs 1, 2 and 3 of Schedule 4 to, the Education Reform Act 1988 and they shall apply with the modifications set out below in this regulation and in regulation 7.

(3) In section 33(2)(a) for the words “each financial year of the authority” there shall be substituted the words “the financial year of the authority commencing on the reorganisation date and each subsequent financial year” .

(4) In section 33(3)—

(a) for paragraph (a) there shall be substituted—

“(a) it is a county, voluntary or special school maintained by that authority at the beginning of that year; or” ; and

(b) in paragraph (b) for the words “or voluntary” in both places where they occur there shall be substituted the words “, voluntary or special” .

(5) In section 34(4)<sup>(8)</sup>—

(a) in paragraph (a) before the word “maintained” there shall be inserted the words “to be” and after the word “authority” there shall be inserted the words “at the beginning of the financial year commencing on the reorganisation date” ; and

(b) in paragraph (c)(ii) before the word “authority” there shall be inserted the word “transferor” .

(6) Section 42(6) shall not apply.

### **New LEAs: Financial year commencing on the reorganisation date**

3.—(1) The provisions of Chapter III of Part I of the Education Reform Act 1988 shall apply to a new LEA in the financial year commencing on the reorganisation date with the modifications set out below in this regulation and in regulation 7.

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(3) 1988 c. 40.

(4) Section 35 was substituted by the Education Act 1993 (c. 35), section 274(2).

(5) Section 39 was amended by S.I. 1991/1890.

(6) Section 42A was inserted by the Education Act 1993, section 275(2).

(7) Section 43 was substituted by the Education Act 1993, section 276.

(8) Subsection (4) was substituted by the Education Act 1993, section 274(1).

- (2) In section 33(3)—
  - (a) for paragraph (a) there shall be substituted—
    - “(a) it is a county, voluntary or special school maintained by that authority at the beginning of that year; or”; and
    - (b) in paragraph (b) for the words “or voluntary” in both places where they occur there shall be substituted the words “, voluntary or special” .
- (3) In section 34(4)(c)(ii) before the word “authority” there shall be inserted the word “transferor” .
- (4) Section 40 shall not apply.
- (5) Section 42(6) shall not apply to a new LEA in the financial year commencing on the reorganisation date in respect of the preceding financial year except that such an authority specified in the Schedule to these Regulations or in a section 17 order as the designated authority for that purpose shall prepare and furnish the statement required by the said sub-section in respect of such local education authority, wound up and dissolved by a section 17 order, as may be specified in that Schedule or in that section 17 order, as the case may be.

#### **New LEAs: Subsequent financial years**

- 4.—(1) The provisions of Chapter III of Part I of the Education Reform Act 1988 shall apply to a new LEA in the financial years following the financial year commencing on the reorganisation date with the modifications set out below in this regulation and in regulation 7.
- (2) Section 33 shall apply as if any reference to a county school maintained by a local education authority included a reference to a special school maintained by that authority.
- (3) In section 34(4)(c)(ii) before the word “authority” there shall be inserted the word “transferor” .
- (4) Section 40 shall not apply.

#### **Existing LEAs: Period before reorganisation date**

- 5.—(1) The provisions of Chapter III of Part I of the Education Reform Act 1988 shall apply to an existing LEA in the period before the reorganisation date with the modifications set out below in this regulation and in regulations 6, 7 and 8.
- (2) In section 34(4)—
  - (a) in paragraph (a) before the word “maintained” there shall be inserted the words “to be” and after the word “authority” there shall be inserted the words “at the beginning of the financial year commencing on the reorganisation date” ;
  - (b) in paragraph (b) after the word “authority” there shall be added the words “as it will be constituted immediately after the reorganisation date” ; and
  - (c) in paragraph (c)(i) after the word “area” there shall be added the words “as it will be constituted immediately after the reorganisation date” .
- (3) In section 35—
  - (a) in subsection (1) there shall be added at the end the words “and shall revise such a scheme so far as is necessary to take into account alterations which have or will be made to its area pursuant to a section 17 order” ; and
  - (b) there shall be added a new subsection (1A) as follows—

“(1A) Section 34(1) of this Act shall apply where the local education authority are preparing a revision required by subsection (1) above as it applies where they are preparing a scheme under section 33 of this Act.”.

**Existing LEAs: Period before the reorganisation date and in subsequent financial years**

6.—(1) Section 33(3) of the Education Reform Act 1988 shall apply to an existing LEA in the financial year commencing on the reorganisation date with the modifications set out below in this regulation—

(a) for paragraph (a) there shall be substituted—

“(a) it is a county, voluntary or special school maintained by that authority at the beginning of that year; or”; and

(b) in paragraph (b) for the words “or voluntary” in both places where they occur there shall be substituted the words “, voluntary or special” .

(2) Before the reorganisation date and in the financial years following the financial year commencing on the reorganisation date, section 33 shall apply as if any reference to a county school maintained by a local education authority included a reference to a special school maintained by that authority.

**New and existing LEAs: Consultation with governing bodies of grant-maintained special schools**

7. Section 34(4)(c) of the Education Reform Act 1988 shall apply to new and existing LEAs before, on and after the reorganisation date with the addition of a new sub-paragraph (iii) as follows —

“or

(iii) the Secretary of State by notice in writing requires the authority to consult.”.

**New and existing LEAs: Suspension of delegated budgets**

8. A local education authority in England shall not suspend the right of a governing body of a school to a delegated budget, under section 37 of the Education Reform Act 1988, within 3 months before the date on which another authority becomes the local education authority in respect of that school without that authority’s written consent.

9. Where a local education authority in England has suspended a governing body’s right to a delegated budget under section 37 of the Education Reform Act 1988 that suspension shall continue, unless previously revoked, after the school in question is maintained by another local education authority until such time as the suspension is revoked or an appeal against the imposition of the suspension or refusal of a local education authority to revoke any such suspension is allowed by the Secretary of State.

27th November 1995

*Gillian Shephard*  
Secretary of State for Education and  
Employment

## SCHEDULE

Regulation 3(5)

### DESIGNATIONS

A new LEA listed in column (1) below is specified as the designated authority for the purpose of preparing and furnishing, in the financial year commencing on 1st April 1996, the statement required by section 42(6) of the Education Reform Act 1988 (financial statement prepared after the end of each financial year) in respect of the local education authority, wound up and dissolved on that date, listed opposite thereto in column (2) below.

(1) (New LEA)	(2) (Dissolved LEA)
The City of Bristol Council	Avon County Council
The East Riding of Yorkshire District Council	Humberside County Council
The Middlesbrough Borough Council	Cleveland County Council

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make incidental and transitional provision of general application for the local management of schools in England in connection with schemes for the financing of county and voluntary schools under Chapter III of Part I of the Education Reform Act 1988. This is in consequence of orders made under section 17 of the Local Government Act 1992 (which make boundary and structural changes to local government areas in England).

Regulations 2, 3 and 4 make provision in relation to the schemes of transferee authorities which will become local education authorities by virtue of the changes made by a section 17 order. Regulations 5 and 6 make provision in relation to the schemes of transferor and transferee authorities which are already local education authorities and whose areas are not abolished.

Regulation 7 makes specific provision regarding consultation with the governing bodies of grant-maintained special schools. Regulations 8 and 9 concern the suspension of schools' delegated budgets.

The Education (Application of Financing Schemes to Special Schools) Regulations 1993 (S.I.1993/3104) provide that where the special schools of a local education authority are required to be covered in any financial year by a scheme made by the authority, the provisions of Chapter III of Part I of the 1988 Act (other than sections 33 and 49 and Schedule 4) shall have effect in relation to that authority, as if any reference contained in these provisions to a county school maintained by an authority included a reference to a special school of that authority. Regulations 2(4), 3(2), 4(2) and 6 provide that for certain purposes section 33 (schemes for financing schools) shall also apply in relation to such special schools.