

SCHEDULE 2

Regulation 9

TRANSFER OF STAFF

PART I

1.—(1) Where—

- (a) a community or voluntary controlled school changes category to become a foundation or voluntary aided school; or
- (b) a community special school changes category to become a foundation special school,

the contract of employment between a person to whom this paragraph applies and the local education authority shall have effect from the implementation date as if originally made between that person and the governing body.

2. Without prejudice to paragraph 1—

- (a) all the local education authority's rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this paragraph be transferred to the governing body on the implementation date; and
- (b) anything done before that date by or in relation to the local education authority in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the governing body.

3. Subject to paragraph 4, paragraph 1 shall apply to any person who immediately before the implementation date is employed by the local education authority to work solely at the school in question.

4. Paragraph 1 shall not apply to—

- (a) any person whose contract of employment terminates on the day immediately preceding the implementation date; or
- (b) any person employed by the local education authority to work at the school solely in connection with the provision of meals.

5. A person who before the implementation date has been appointed by the local education authority to work at the school as from the implementation date or a date thereafter shall be treated for the purposes of paragraph 3 as if that person had been employed by the local education authority immediately before the implementation date to do such work at the school as he or she would have been required to do on or after that date under his or her contract of employment with the local education authority.

6. Paragraphs 1 and 2 are without prejudice to any right of an employee to terminate the contract if a substantial change is made to the employee's detriment in his or her working conditions, but no such right shall arise by reason only of the change in employer effected by these Regulations.

PART II

7.—(1) Where—

- (a) a foundation or voluntary aided school changes category to become a community or voluntary controlled school; or
- (b) a foundation special school changes category to become a community special school,

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the contract of employment between a person to whom this paragraph applies and the governing body shall have effect from the implementation date as if originally made between that person and the local education authority.

8. Without prejudice to paragraph 7—

- (a) all the governing body’s rights, powers, duties and liabilities under or in connection with the contract of employment shall by virtue of this paragraph be transferred to the local education authority on the implementation date; and
- (b) anything done before that date by or in relation to the governing body in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the local education authority.

9. Subject to paragraph 10, paragraph 7 shall apply to any person who immediately before the implementation date is employed by the governing body to work at the school in question.

10. Paragraph 7 shall not apply to any person whose contract of employment terminates on the day immediately preceding the implementation date.

11. A person who before the implementation date has been appointed by the governing body to work at the school as from the implementation date or a date thereafter shall be treated for the purposes of paragraph 9 as if that person had been employed by the governing body immediately before the implementation date to do such work at the school as he or she would have been required to do on or after that date under his or her contract of employment with the governing body.

12. Paragraphs 7 and 8 are without prejudice to any right of an employee to terminate the contract if a substantial change is made to the employee’s detriment in his or her working conditions, but no such right shall arise by reason only of the change in employer effected by these Regulations.

PART III

13.—(1) This paragraph applies where a voluntary controlled school or a foundation school with a religious character changes category to become a voluntary aided school with a religious character.

(2) Where immediately before the implementation date a teacher at a voluntary controlled or foundation school enjoyed, by virtue of section 60(2) of the Act, rights not conferred on him or her on or after the implementation date by section 60 as a teacher at a voluntary aided school, he or she shall continue to enjoy those rights until he or she ceases to be employed as a teacher at the voluntary aided school.