



# Education Act 1996

## 1996 CHAPTER 56

### <sup>F1</sup>PART II

#### SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

#### CHAPTER IV

#### GOVERNMENT OF COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### *Instruments of government*

#### **76 Instruments of government.**

- (1) For every county, voluntary and maintained special school there shall be an instrument (known as the instrument of government) providing for the constitution of the school's governing body.
- (2) The instrument of government shall be made by order of the local education authority.
- (3) The instrument of government—
  - (a) shall contain such provisions as are required by this Chapter or by any other enactment; and
  - (b) shall not contain any provision which is inconsistent with any provision made by or under this Act or any other enactment.
- (4) The instrument of government shall comply with any trust deed relating to the school.
- (5) This section has effect subject to section 89 (grouping of two or more schools under a single governing body) and sections 96 and 97 (temporary governing body for new school pending constitution of its governing body).

*Status: Point in time view as at 01/10/1998.*

*Changes to legislation: Education Act 1996, Chapter IV is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

C1 S. 76 excluded (1.1.1999) by S.I. 1998/3097, reg.3

**77 Procedure for making and altering instruments of government.**

- (1) Before making an order under section 76, a local education authority shall consult the governing body and the head teacher of the school concerned.
- (2) Before making an order under section 76 in respect of a voluntary school, a local education authority shall also—
  - (a) secure the agreement of the governing body to the terms of the proposed order;
  - (b) secure the agreement of the foundation governors to any provisions which are of particular concern to those governors; and
  - (c) have regard to the way in which the school has been conducted.
- (3) Where the governing body of a county, voluntary or maintained special school make a proposal to the local education authority for the alteration of the provision made by the instrument of government for the school, the authority shall consider their proposal.
- (4) Where—
  - (a) the foundation governors of a voluntary school make a proposal to the local education authority for the alteration of the provision made by the instrument of government for the school, and
  - (b) the proposal relates solely to one or more matters which are of particular concern to those governors,
 the authority shall consider their proposal.
- (5) Where a local education authority—
  - (a) propose to make an order under section 76 but cannot secure any agreement required by subsection (2), or
  - (b) refuse, in the case of a voluntary school, to make such an order in response to a proposal of a kind mentioned in subsection (3) or (4),
 the authority or (as the case may be) the governing body or foundation governors may refer the matter to the Secretary of State.
- (6) On a reference to him under subsection (5), the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the status of the school as a controlled, aided or (as the case may be) special agreement school.
- (7) Where it appears to the Secretary of State—
  - (a) that an order, or proposed order, under section 76 is in any respect inconsistent with the provisions of any trust deed relating to the school concerned, and
  - (b) that it is expedient in the interests of the school that the provisions of the trust deed should be modified for the purpose of removing the inconsistency,
 he may by order make such modifications in the trust deed as appear to him to be just and expedient for that purpose.
- (8) References in this section to an order, or proposed order, under section 76 are references to an order, or proposed order, under that section embodying or varying an instrument of government.

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### *Categories of governor*

#### **78 Categories of governor.**

- (1) In this Act “co-opted governor”, in relation to a county, voluntary or maintained special school, means a person appointed to be a member of the school’s governing body by being co-opted by those governors of the school who have not themselves been so appointed (and accordingly does not include a governor of the school appointed in accordance with any provision made by virtue of section 81 (appointment of parent governors by governing body as a whole)).
- (2) In this Act “foundation governor”, in relation to a voluntary school, means a person appointed to be a member of the school’s governing body, otherwise than by a local education authority or a minor authority, for the purpose of securing (so far as is practicable)—
  - (a) that the character of the school as a voluntary school is preserved and developed, and
  - (b) in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it.
- (3) In this Act “parent governor”, in relation to a county, voluntary or maintained special school, means—
  - (a) a person who is elected as a member of the school’s governing body by parents of registered pupils at the school and is himself such a parent at the time when he is elected, or
  - (b) (in the case of a county, controlled or maintained special school) a person who is appointed as a member of the governing body in accordance with any provision made by virtue of section 81.
- (4) In this Act “teacher governor”, in relation to a county, voluntary or maintained special school, means a person who is elected as a member of the school’s governing body by teachers at the school and who is himself such a teacher at the time when he is elected.
- (5) In relation to any group of schools under section 89 for which the instrument of government makes by virtue of section 93 provision with respect to the election of parent or teacher governors, any reference in subsection (3) or (4) to a person being elected as there mentioned is a reference to his being so elected in accordance with any such provision made by virtue of section 93.

### *Governing bodies of county, controlled and maintained special schools*

#### **79 Constitution of the governing body of a county, controlled or maintained special school.**

- (1) Subject to section 80 (representative governors for certain schools), the instrument of government for a county or maintained special school shall provide for the governing body to consist of the following (and no others)—
  - (a) the head teacher, unless he chooses not to be a governor, and
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the size of the school.

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<b>Category of governor</b>	<b>School with less than 100 registered pupils</b>	<b>School with 100 or more but less than 300 registered pupils</b>	<b>School with 300 or more but less than 600 registered pupils</b>	<b>School with 600 or more registered pupils</b>
Parent governors	2	3	4	5
Governors appointed by the local education authority	2	3	4	5
Teacher governors	1	1	2	2
Co-opted governors	3	4	5	6

- (2) Subject to section 80, the instrument of government for a controlled school shall provide for the governing body to consist of the following (and no others)—
- (a) the head teacher, unless he chooses not to be a governor, and
  - (b) governors of each of the categories specified in the first column of the following table, in the numbers specified in whichever of the other columns relates to the size of the school.

<b>Category of governor</b>	<b>School with less than 100 registered pupils</b>	<b>School with 100 or more but less than 300 registered pupils</b>	<b>School with 300 or more but less than 600 registered pupils</b>	<b>School with 600 or more registered pupils</b>
Parent governors	2	3	4	5
Governors appointed by the local education authority	2	3	4	5
Teacher governors	1	1	2	2
Foundation governors	2	3	4	4
Co-opted governors	1	1	1	2

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- (3) Where the instrument of government so provides, a county, controlled or maintained special school with 600 or more registered pupils shall be treated for the purposes of this section as one with 300 or more but less than 600 registered pupils.
- (4) Where the head teacher of a county, controlled or maintained special school is a governor he shall be treated for all purposes as being an ex officio governor.

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

C2 S. 79(1)(2) excluded (1.11.1996) by 1996 c. 57, ss. 27(4), 48(2).

**80 Appointment of representative governors in place of co-opted governors.**

- (1) The instrument of government for a primary school which is a county or controlled school serving an area for which there is a minor authority shall provide for one governor to be appointed by that authority.
- (2) The instrument of government for a maintained special school which is established in a hospital shall provide—
  - (a) (if the hospital is vested in the Secretary of State) for one governor to be appointed by the Health Authority; or
  - (b) (if the hospital is vested in a National Health Service trust) for one governor to be appointed by that trust.
- (3) The instrument of government for a maintained special school which is not established in a hospital shall, if the school has less than 100 registered pupils, provide for one governor to be appointed—
  - (a) by a voluntary organisation designated by the local education authority, in relation to the school, as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised; or
  - (b) jointly by two or more voluntary organisations so designated as appropriate voluntary organisations concerned with such matters;or, if the school has 100 or more registered pupils, shall provide for two governors to be appointed as mentioned in paragraph (a) or (b).
- (4) Where, by virtue of subsection (3) above, an instrument of government is required to provide for the appointment of two governors, it may make different provision in relation to the appointment of one governor from that made in relation to the appointment of the other.
- (5) Where a local education authority are satisfied, in relation to any special school, that there is no voluntary organisation which it would be appropriate to designate for the purposes of subsection (3), that subsection shall not apply to the instrument of government for the school.
- (6) An instrument of government which is required by this section to provide for the appointment of a governor shall name the person or persons by whom the governor is to be appointed.
- (7) Subject to subsection (8), an instrument of government which is required by this section to provide for the appointment of one or (as the case may be) two governors shall in consequence provide for the appointment of one or two fewer co-opted governors than would otherwise be provided for.

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- (8) If that instrument of government is for a controlled school which—
- (a) has less than 600 registered pupils, or
  - (b) is, by virtue of subsection (3) of section 79, to be treated for the purposes of that section as having less than 600 such pupils,
- the instrument shall not provide for the appointment of any co-opted governor.
- (9) In subsections (7) and (8) references to co-opted governors are references to governors required to be co-opted by virtue of section 79 but do not include co-opted foundation governors.

## **81 Appointment of parent governors by governing bodies.**

- (1) The instrument of government for a county or controlled school, or for a maintained special school which is not established in a hospital, may provide that if at the time when the instrument is made, or at any later time when there is a vacancy for a parent governor—
- (a) at least 50 per cent. of the registered pupils at the school are boarders, and
  - (b) it would, in the opinion of the local education authority, be impracticable for there to be an election of parent governors,
- the parent governors, or (as the case may be) the parent governor required to fill that vacancy, shall be appointed by the other members of the governing body.
- (2) Where, in the opinion of the local education authority, it is likely to be impracticable for there to be elections of parent governors at a maintained special school which is established in a hospital, the instrument of government for the school may provide for the parent governors to be appointed by the other members of the governing body.
- (3) The instrument of government for a county, controlled or maintained special school at which parent governors are to be, or may be, elected shall provide for the required number of parent governors to be made up by parent governors appointed by the other members of the governing body if—
- (a) one or more vacancies for parent governors are required to be filled by election; and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies.
- (4) The instrument of government for a county, controlled or maintained special school shall require governors, in appointing a parent governor under a provision made by virtue of this section—
- (a) to appoint a person who is the parent of a registered pupil at the school, where it is reasonably practicable to do so, and
  - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.
- (5) Such an instrument shall also provide that governors shall not appoint as a parent governor under such a provision any person who is—
- (a) an elected member of the local education authority, or
  - (b) an employee of the authority or of the governing body of any aided school maintained by the authority.

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## **82 Review of the constitution of governing bodies.**

- (1) The constitution of the governing body of a county, controlled or maintained special school shall be reviewed in accordance with this section on, or as soon as is reasonably practicable after, the occurrence of any event which is a relevant event in relation to the school.
- (2) For the purposes of this section any of the following is a “relevant event” in relation to a school—
  - (a) the implementation of any proposals falling within subsection (3);
  - (b) where no such proposals have been implemented in relation to the school before the fourth anniversary of the date on which the current instrument of government for the school was made, that anniversary; and
  - (c) where a relevant event has previously occurred in relation to the school, the fourth anniversary of the latest such event.
- (3) Proposals fall within this subsection if they provide for an increase in the number of registered pupils at the school and are—
  - (a) proposals under section 35(1)(c) or (d) (alteration of character or premises of a county school or transfer to a new site) or proposals which would fall to be published under section 35(1)(d) but for section 35(2)(b);
  - (b) proposals under section 41(2)(a) or (b) (alteration of character or premises of a voluntary school or transfer to a new site);
  - (c) proposals that the Secretary of State should make an order under section 47 (transfer of voluntary school to a new site); or
  - (d) proposals under section 339(1)(b) (prescribed alteration to maintained special school).
- (4) Any review which is required by virtue of the implementation of proposals falling within subsection (3)(a) or (d) shall be carried out by the local education authority; and any other review which is required by this section shall be carried out by the governing body.
- (5) Whenever a local education authority or governing body are required to carry out a review under this section, they shall consider—
  - (a) whether the governing body are properly constituted; and
  - (b) whether the provision made by the instrument of government for the school is in any respect different from that which a new instrument of government would be required to make.
- (6) Where a governing body have carried out a review under this section and have established that the provision made by the instrument of government is in one or more respects different from that which a new instrument of government would be required to make, they shall report the fact to the local education authority.
- (7) Where proposals falling within subsection (3)(a) or (d) have been implemented in relation to a school, the local education authority shall determine the date on which, for the purposes of this section, they are to be taken to have been implemented and shall notify the governing body accordingly.

## **83 Adjustment in number of governors.**

- (1) Where—

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- (a) a county, controlled or maintained special school has more governors of a particular category than are provided for by the instrument of government for the school, and
  - (b) the excess is not eliminated by the required number of governors of that category resigning,
- such number of governors of that category as is required to eliminate the excess shall cease to hold office.
- (2) The governors who are to cease to hold office shall be selected on the basis of seniority, the longest-serving governor being the first to be selected, and so on.
  - (3) Where it is necessary for the purposes of subsection (2) to select one or more governors from a group of equal seniority, it shall be done by drawing lots.
  - (4) Subsections (2) and (3) do not apply in relation to foundation governors.
  - (5) The instrument of government for a controlled school shall make provision for the procedure to be adopted whenever subsection (1) requires a foundation governor to cease to hold office.

*Governing bodies of aided and special agreement schools*

**84 Constitution of the governing body of an aided or special agreement school.**

- (1) The instrument of government for an aided or special agreement school shall provide for the governing body to include—
  - (a) the head teacher, unless he chooses not to be a governor,
  - (b) at least one parent governor,
  - (c) at least one governor appointed by the local education authority,
  - (d) at least one teacher governor if the school has less than 300 registered pupils, and at least two teacher governors if it has 300 or more registered pupils, and
  - (e) foundation governors.
- (2) The instrument shall provide for such number of foundation governors as will lead to their outnumbering the other governors—
  - (a) by two, if the governing body will consist of not more than 18 governors; or
  - (b) by three, if it will consist of more than 18 governors,
 and shall provide for at least one of the foundation governors to be (at the time of his appointment) a parent of a registered pupil at the school.
- (3) If the school is a primary school serving an area for which there is a minor authority, the instrument shall provide for the governing body to include also at least one governor appointed by that authority.
- (4) Where the head teacher of an aided or special agreement school has chosen not to be a governor, he shall nevertheless be counted as one for the purposes of calculating the required number of foundation governors.
- (5) Subject to subsection (2), nothing in this section shall be taken to prevent the instrument of government for such a school from providing for the governing body to include governors in addition to those required by virtue of this section.



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- (6) Where the head teacher of such a school is a governor he shall be treated for all purposes as being an ex officio governor.

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

C3 S. 84(2) amended (1.11.1996) by 1996 c. 57, ss. 27(8), 48(2)

**85 Sponsor governors for aided secondary schools.**

- (1) The instrument of government for any secondary school which is an aided school shall, if a direction given by the Secretary of State under this section so requires—
- (a) name as a sponsor of the school a person specified in the direction, and
  - (b) provide for the governing body of the school to include such number of governors appointed by the sponsor, not exceeding four, as is so specified.
- (2) A direction under this section in respect of a school, other than one under subsection (4) or (5)—
- (a) may only be given at the request, or with the consent, of the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Chapter) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (3) A direction under this section varying or revoking a previous direction—
- (a) may only be made after consulting the governing body, and
  - (b) may make provision (including the modification of any provision made by or under this Chapter) as to the time by which a new instrument of government is to be made and the consent and consultation which is to be required before it is made.
- (4) Where proposals approved under section 43—
- (a) provide for a secondary school to be maintained by the local education authority as a voluntary school, and
  - (b) name a person as a sponsor of the school, and
  - (c) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,
- the Secretary of State shall, if he makes an order under section 48 directing that the school shall be an aided school, give a direction under this section for the purpose of implementing the proposals.
- (5) Where an order under section 54 directs that a secondary school shall be an aided school and the proposals published by the governing body under section 52—
- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body of the school to include a specified number of governors, not exceeding four, appointed by the sponsor,
- the Secretary of State shall give a direction under this section for the purpose of implementing the proposals.

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- (6) Where the instrument of government for any secondary school which is an aided school names two or more persons as sponsors of the school—
- (a) the number of governors appointed under the instrument by virtue of this section may not exceed four, and
  - (b) the instrument may not provide for any of those governors to be appointed by two or more sponsors acting jointly.
- (7) Where in pursuance of this section the instrument of government for a school names a person as a sponsor of the school, section 84(2) shall have effect as if it required the instrument to provide for such number of foundation governors as will lead to their outnumbering the other governors by two.
- (8) In this section “direction” means a direction contained in an order made by the Secretary of State.

*Governing bodies: general*

**86 Instrument of government to reflect current circumstances of school.**

- (1) Subject to subsection (2) and paragraph 5(2) of Schedule 10 (which makes in relation to new schools provision similar to that made by subsection (2) in relation to existing schools), the instrument of government for a county, voluntary or maintained special school shall make such provision as is appropriate having regard to all the circumstances of the school as at the date on which the instrument is made.
- (2) Where proposals falling within section 82(3) have been implemented in relation to a school, then for the purposes of subsection (1) the number of registered pupils at the school shall, until the actual number of registered pupils at the school reaches the maximum number of pupils provided for by the proposals, be deemed to be that maximum number.
- (3) Where subsection (2) applies in relation to a school—
- (a) the local education authority, or
  - (b) if the proposals fall within section 82(3)(b) [F1 or (c)], the governing body, may determine that it shall cease to apply (but without prejudice to its operation in relation to the implementation of any further proposals).

**Textual Amendments**

**F1** Words in s. 86(3)(b) inserted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.15**; S.I. 1997/1468, art. 2, **Sch. 1 Pt. I**

**87 Effect of change in circumstances of school.**

- (1) Where the effect of any subsequent change in the circumstances of a county, voluntary or maintained special school is that the provision made by the instrument of government for the school differs in any respect from the provision which a new instrument of government would be required to make, the local education authority shall (subject to subsection (2))—
- (a) vary the instrument of government in such manner as is necessary to remove any such difference, or

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- (b) make a new instrument of government.
- (2) For the purposes of subsection (1) any change in the number of registered pupils at a county, controlled or maintained special school occurring after the instrument of government for the school is made, or (as the case may be) varied, may be disregarded until a review under section 82 establishes that the provision made by the instrument differs in any respect from the provision which a new instrument of government for the school would be required to make.
- (3) Where section 86(2) has applied in relation to a school but the local education authority or (as the case may be) governing body have subsequently determined that it should cease to apply, subsections (1) and (2) above shall have effect as if a change in the number of registered pupils at the school had occurred at the time when that determination was made.
- (4) The instrument of government for a county, voluntary or maintained special school may make provision which would be appropriate in the event of such a change in the circumstances of the school as is anticipated by that provision (including in particular a change in the number of registered pupils at the school).
- (5) No provision made by the instrument of government for a county, controlled or maintained special school in anticipation of a change in the number of registered pupils at the school shall have effect before it is established, by a review under section 82, that a new instrument of government would be required to make that provision.

## **88 Incorporation, membership and proceedings etc. of governing bodies.**

- (1) Any governing body of a county, voluntary or maintained special school constituted in pursuance of this Chapter shall be constituted as a body corporate; and Schedule 7 has effect in relation to the incorporation of any such governing body.
- (2) Schedule 8 has effect in relation to the membership and proceedings of, and other matters relating to, any such governing body.

### *Grouping of schools under a single governing body*

## **89 Grouping of schools under a single governing body.**

- (1) Subject to subsection (2), a local education authority may resolve that any two or more schools maintained by them shall be grouped for the purposes of this Chapter.
- (2) If the instrument of government of any of the schools names a person as a sponsor of the school, a local education authority may only pass a resolution under subsection (1) if all the schools are secondary schools.
- (3) Where any schools are grouped under this section, they shall—
  - (a) be treated for the purposes of this Chapter as a single school; and
  - (b) have a single governing body constituted under a single instrument of government.
- (4) A group shall be treated for the purposes of this Chapter—
  - (a) as an aided school, if it contains at least one aided school;
  - (b) as a special agreement school, if it contains at least one special agreement school and paragraph (a) does not apply;

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- (c) as a controlled school, if it contains at least one controlled school and neither paragraph (a) nor paragraph (b) applies;
  - (d) as a maintained special school, if it consists only of maintained special schools; and
  - (e) as a county school, if none of paragraphs (a) to (d) applies.
- (5) In this Part—
- “group” means two or more schools grouped under this section; and
  - “grouped school” means a school which forms a part of a group.
- (6) Any reference in any enactment to the governing body or governors of a school shall be construed, in relation to any grouped school, as a reference to the governing body or governors of the group.

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

- C4 S. 89 restricted (1.11.1996) by 1996 c. 57, ss. 29(1), 48(2)  
 S. 89 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)  
 S. 89 applied (24.7.1998 for certain purposes only) by 1998 c. 31, ss. 36(2), 145(3)(5), Sch. 10 para. 1(7) (with ss. 138(9), 144(6)).

**90 Consent of Secretary of State as to grouping.**

- (1) Subject to subsection (2), a local education authority shall, before resolving to group any schools under section 89, obtain the consent of the Secretary of State to the proposed grouping.
- (2) The Secretary of State’s consent is not required if—
- (a) the group will consist only of two primary schools;
  - (b) both of the schools serve substantially the same area;
  - (c) neither of the schools is a special school; and
  - (d) where they are in Wales, there is no significant difference between them in their use of the Welsh language.
- (3) Where—
- (a) two primary schools have been grouped in circumstances in which, by virtue of subsection (2), the Secretary of State’s consent to the grouping was not required, and
  - (b) a change of circumstances occurs such that a proposal to group those schools made after that change would require his consent,
- the local education authority shall obtain his consent to their continuing to be grouped.
- (4) The Secretary of State may give his consent to any grouping (or continued grouping) of schools subject to such conditions as to the duration of the grouping as he sees fit to impose.
- (5) Where the Secretary of State’s consent is required to the grouping or continued grouping of any schools, sections 79 to 81, 84 and 85 and paragraph 2(2) of Schedule 8 (representation of local business community on governing body) shall apply in relation to the group subject to such modifications (if any) as he may direct.
- (6) Any dispute as to whether, for the purposes of this section—

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- (a) two primary schools are to be regarded as serving substantially the same area, or
  - (b) there is any significant difference between two primary schools in their use of the Welsh language,
- shall be determined by the Secretary of State.

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

C5 S. 90 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**91 Consent of, or consultation with, governing body as to grouping.**

- (1) A local education authority shall not pass a resolution under section 89 applying to a voluntary school without first obtaining the consent of the school's governing body.
- (2) A local education authority shall not pass a resolution under section 89 applying to a county or maintained special school without first consulting the school's governing body.

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

C6 S. 91 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**92 Procedure for making or altering the instrument of government for a group.**

- (1) Before making an order under section 76 embodying the first instrument of government for a group, the local education authority shall consult the governing body and head teacher of each school within the group.
- (2) Before making such an order in respect of a group which contains one or more voluntary schools, the local education authority shall also—
  - (a) secure the agreement of the governing body of each of those schools to the terms of the proposed order,
  - (b) secure the agreement of the foundation governors of each of those schools to any provision which will be of particular concern to the foundation governors of the group, and
  - (c) have regard to the way in which those schools have been conducted.
- (3) Where an order such as is mentioned in subsection (1) has been made, section 77 shall apply in relation to any subsequent order embodying or varying the instrument of government for the group, or any proposal for the making of such an order, as if the group—
  - (a) (where it contains one or more voluntary schools) were a single voluntary school; or
  - (b) (in any other case) were a single county school.
- (4) Any agreement required by subsection (2) shall be treated for the purposes of section 77(5) as having been required by section 77(2).

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

C7 S. 92 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**93 Election of parent and teacher governors for a group.**

The instrument of government for a group—

- (a) may provide for the local education authority to have power to determine, in relation to every election of parent or teacher governors, the school or schools within the group—
  - (i) the parents of registered pupils at which are entitled to stand and vote at the election, or
  - (ii) the teachers at which are entitled to stand and vote at the election, as the case may be; and
- (b) where it so provides, shall require the authority to ensure that the position after any such election will be that there is no school within the group which will not have had an opportunity to participate in accordance with paragraph (a) in the election of at least one of the parent or (as the case may be) teacher governors of the group.

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

C8 S. 93 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**94 Review of grouping.**

- (1) Where subsection (2) applies in relation to a school which is grouped with one or more other schools under section 89, the local education authority shall review the grouping of those schools and consider whether or not it should be brought to an end.
- (2) This subsection applies in relation to a school if—
  - (a) proposals relating to it are made under—
    - (i) section 35 (establishment, alteration etc. of county schools),
    - (ii) section 41 (establishment, alteration etc. of voluntary schools),
    - (iii) section 52 (controlled schools becoming aided schools),
    - (iv) section 167 (discontinuance of county, voluntary and nursery schools), or
    - (v) section 339 (establishment etc. of special schools); or
  - (b) it is proposed that the Secretary of State should make an order relating to it under section 46 (establishment of new voluntary schools in substitution for old ones) or section 47 (transfer of voluntary schools to new sites); or
  - (c) the Secretary of State makes an order relating to it—
    - (i) under section 50 or section 51 (division of county or voluntary school), or
    - (ii) under section 57 or 58(1) (revocation of orders by virtue of which schools are aided or special agreement schools); or
  - (d) it is transferred to a new site in circumstances falling within section 35(2)(b).

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- (3) Where on a review under this section a local education authority consider that any grouping of schools should be continued, and the Secretary of State's consent to the grouping, or to the continued grouping, of the schools was at any time required by section 90, the authority shall—
- (a) report to the Secretary of State on the results of their review; and
  - (b) provide him with such information as he may reasonably require with a view to enabling him to consider whether or not the grouping should be brought to an end.

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

**C9** S. 94 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**95 Termination of grouping.**

- (1) The Secretary of State may by order bring to an end any grouping under section 89 in respect of which his consent was at any time required by section 90.
- (2) Any grouping under section 89 may, if the group does not contain a voluntary school, be brought to an end by resolution of the local education authority.
- (3) Any such grouping may, if the group contains a voluntary school but not one whose instrument of government names any person as a sponsor of the school, be brought to an end—
  - (a) by resolution of the local education authority made with the agreement of the governing body, or
  - (b) by one year's notice given either by the authority to the governing body or by the governing body to the authority.
- (4) Any order under section 76 embodying an instrument of government for two or more schools which are grouped under section 89 shall be taken to have been revoked—
  - (a) in the case of a group which was established for a specified period, at the end of that period, or
  - (b) at the time when the grouping is brought to an end in accordance with subsection (1), (2) or (3).

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

**C10** S. 95 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(a)

**C11** S. 95(1) extended (1.11.1996) by 1996 c. 57, ss. 29(2), 48(2)

*Government of new schools*

**96 Temporary governing bodies for new county or maintained special schools.**

- (1) Where—
  - (a) the Secretary of State has approved under section 37 or section 340 proposals of a kind mentioned in subsection (2), or

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- (b) a local education authority have determined under section 38 to implement any proposals made by them under section 35,
- the local education authority shall (unless they have already exercised their power to do so under subsection (3)) make an arrangement for the constitution of a temporary governing body for the school in question pending the constitution of its governing body under an instrument of government.
- (2) The proposals referred to in subsection (1) are any proposals made by a local education authority—
- (a) to establish a new county school;
  - (b) to maintain as a county school a school which is neither a county school nor a voluntary school; or
  - (c) to establish a new school which is specially organised to make special educational provision for pupils with special educational needs.
- (3) Where any such proposals have been duly published under section 35 or (as the case may be) notice of them has been duly served under section 339, the local education authority may make an arrangement such as is mentioned in subsection (1) in anticipation of the Secretary of State's approval of the proposals or (as the case may be) the determination by the authority that they should be implemented.
- (4) An arrangement made under subsection (3) shall come to an end if—
- (a) the proposals are withdrawn, or
  - (b) the Secretary of State rejects them under section 37 or (as the case may be) section 340, or
  - (c) (in the case of proposals made under section 35), the local education authority determine under section 38 not to implement them.
- (5) An arrangement made under this section shall, unless it has been brought to an end under subsection (4), come to an end when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

**C12** S. 96(1)(3) modified (1.1.1999) (*temp.*) by S.I. 1998/3097, **reg.4**

**C13** S. 96(5) excluded (1.1.1999) by S.I. 1998/3097, **reg. 8(b)**

**97 Temporary governing bodies for new voluntary schools.**

- (1) Where the Secretary of State has approved under section 43 any proposals that a school—
- (a) which was established by those making the proposals, or by the persons whom they represent, and is not a voluntary school, or
  - (b) which is proposed to be so established,
- should be maintained by a local education authority as a voluntary school, the local education authority shall (unless they have already exercised their power to do so under subsection (2)) make an arrangement for the constitution of a temporary governing body for the school pending the constitution of its governing body under an instrument of government.



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- (2) Where any such proposals have been duly published under section 41, the local education authority may make an arrangement such as is mentioned in subsection (1) in anticipation of the Secretary of State's approval of the proposals.
- (3) If the proposals so published are for the school in question to be maintained as a controlled school, the authority shall consult the persons making the proposals—
  - (a) as to whether the power given to the authority by subsection (2) should be exercised, and
  - (b) if the authority propose to exercise it, as to the date on which the arrangement should be made.
- (4) If the proposals so published are for the school in question to be maintained as an aided school, the authority and the persons making the proposals shall consider—
  - (a) whether the power given to the authority by subsection (2) should be exercised, and
  - (b) where they agree that it should, on what date the arrangement should be made.
- (5) Where, in a case within subsection (4), the authority and the persons making the proposals fail to agree on the question mentioned in paragraph (a) or on that mentioned in paragraph (b), either of them may refer the matter to the Secretary of State.
- (6) On a reference under subsection (5), the Secretary of State shall give such direction as he thinks fit.
- (7) An arrangement made under subsection (2) shall come to an end if—
  - (a) the proposals are withdrawn, or
  - (b) the Secretary of State rejects them under section 43.
- (8) An arrangement made under this section, other than one which has been brought to an end under subsection (7), shall come to an end when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

**C14** S. 97(1)(2) modified (1.1.1999) (*temp.*) by S.I. 1998/3097, **reg.4**

**C15** S. 97(8) excluded (1.1.1999) by S.I. 1998/3097, **reg. 8(c)**

**98 Constitution, membership and proceedings etc. of temporary governing bodies.**

Schedule 9 has effect in relation to the constitution, membership and proceedings of, and other matters relating to, temporary governing bodies.

**99 Transition from temporary governing body to governing body constituted under an instrument of government.**

- (1) The requirement for there to be an instrument of government for a school (imposed by section 76) shall take effect in relation to a new school from the date on which the relevant proposals are implemented.
- (2) Where a question arises as to which date is to be taken for the purposes of this section to be the date on which the relevant proposals are implemented, it shall be determined by the Secretary of State.

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- (3) Schedule 10 has effect in relation to the transition from a temporary governing body to a governing body constituted under an instrument of government.

### *Grouping of new schools*

#### **100 Grouping of new schools.**

- (1) This section applies for the purposes of grouping a new school under section 89 with effect from the relevant time.
- (2) Any provision of sections 89 to 91 which operates by reference to the existence or absence of any particular circumstances in the case of a school, or to the status of a school, shall be treated (so far as necessary for the purposes mentioned in subsection (1) above) as so operating by reference to the position as it will be at the relevant time.
- (3) In addition section 91 shall have effect for those purposes as if any reference to a school's governing body were a reference to its temporary governing body.
- (4) In this section "the relevant time", in relation to a new school, means the time when the requirement for there to be an instrument of government for the school takes effect under section 99.

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

**C16** S. 100 excluded (1.1.1999) by S.I. 1998/3097, reg. 8(d)

**Status:**

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**Changes to legislation:**

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