



# Education Act 1996

## 1996 CHAPTER 56

### PART III

#### GRANT-MAINTAINED SCHOOLS

#### CHAPTER VII

##### ALTERATION ETC. OF GRANT-MAINTAINED SCHOOLS

#### **259 Proposals for change of character etc. by governing body.**

- (1) Subject to subsection (2), where the governing body of a grant-maintained school intend to make a significant change in the character, or a significant enlargement of the premises, of the school or to transfer the school to a new site they shall—
  - (a) publish proposals for that purpose in such manner as may be prescribed, and
  - (b) submit to the Secretary of State a copy of the published proposals.
- (2) No proposals shall be published under this section for the purpose of making a significant change in the religious character of a school unless the trustees under any trust deed relating to the school have given their consent in writing to the change in question; and the requirement to publish proposals under subsection (1) does not apply in relation to a transfer of a school to a new site if it is intended to return to the existing site within three years of the time of the transfer.
- (3) Before publishing any proposals under this section, the governing body shall consult such persons as appear to them to be appropriate; and in discharging their duty under this subsection, the governing body shall have regard to any guidance given to them from time to time by the Secretary of State.
- (4) Proposals published under this section shall include particulars—
  - (a) of the proposed time or times of implementation of the proposals, and

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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)*

- (b) of the number of pupils proposed to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and, if pupils are proposed to be admitted for nursery education, shall give the prescribed information.
- (5) Proposals published under this section shall be accompanied by a statement which—
- (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
  - (b) explains the effect of subsection (6).
- (6) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the Secretary of State by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of any school affected by the proposals,
  - (c) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M1</sup>Further and Higher Education Act 1992 applies), and
  - (d) any local education authority concerned.
- (7) Where the proposals are to transfer a school to a site in a different area, objections under subsection (6) to the proposals may also be submitted by any ten or more local government electors for that area.
- (8) No decision taken at a meeting of the governing body of a grant-maintained school that would result in the publication of proposals under this section shall have effect unless it is confirmed at a second meeting of the governing body held not less than 28 days after the first.

**Marginal Citations**

M1 1992 c. 13.

**260 Proposals for change of character etc. by funding authority.**

- (1) This section has effect in respect of the area of a local education authority if an order under section 27(1) applies to the area.
- (2) Where the funding authority are of the opinion that—
- (a) a significant change should be made in the character of a grant-maintained school,
  - (b) a significant enlargement of the premises of such a school should be made, or
  - (c) such a school should be transferred to a new site in the area or in another area to which an order under section 27(1) applies,
- they may publish proposals for that purpose in such manner as may be prescribed and submit a copy of the published proposals to the Secretary of State.
- (3) No proposals shall be published under this section for the purpose of making a significant change in the religious character of a school; and subsection (2) does not apply in relation to a transfer of a school to a new site if it is intended to return to the existing site within three years of the time of the transfer.

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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)*

- (4) Before publishing any proposals under this section the funding authority shall consult—
- (a) such persons as appear to them to be appropriate, and
  - (b) (in the case of a Church of England, Church in Wales or Roman Catholic Church school having any foundation governor who is appointed by the appropriate diocesan authority) that authority;
- and in discharging their duty under paragraph (a) the funding authority shall have regard to any guidance given to them from time to time by the Secretary of State.
- (5) Proposals published under this section shall include particulars—
- (a) of the proposed time or times of implementation of the proposals, and
  - (b) of the number of pupils proposed to be admitted to the school in each relevant age group in the first school year in relation to which the proposals have been wholly implemented,
- and, if pupils are proposed to be admitted for nursery education, shall give the prescribed information.
- (6) Proposals published under this section shall be accompanied by a statement which—
- (a) describes any effect the implementation of the proposals would have on provision at the school for pupils who have special educational needs, and
  - (b) explains the effect of subsection (7).
- (7) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the funding authority by any of the following—
- (a) any ten or more local government electors for the area,
  - (b) the governing body of the school to which the proposals relate,
  - (c) the governing body of any other school affected by the proposals,
  - (d) the appropriate further education funding council (if the proposals affect the provision of education to which section 2(1) of the <sup>M2</sup>Further and Higher Education Act 1992 applies), and
  - (e) any local education authority concerned.
- (8) Where the proposals are to transfer a school to a site in a different area, objections under subsection (7) to the proposals may also be submitted by any ten or more local government electors for that area.
- (9) Not later than one month after the end of that period, the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them.

**Marginal Citations**

M2 1992 c. 13.

**261 Approval, adoption or rejection of proposals.**

- (1) Proposals published under section 259 require the approval of the Secretary of State.
- (2) Proposals published under section 260 require the approval of the Secretary of State if—

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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)*

- (a) he gives notice to that effect to the funding authority within two months after the submission to him of the published proposals, or
  - (b) objections have been made under subsection (7) of that section within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (3) Where under subsection (1) or (2) any proposals require the approval of the Secretary of State, he may—
- (a) reject them,
  - (b) approve them without modification, or
  - (c) after consulting the governing body (and, in the case of proposals published under section 260, the funding authority) approve them with such modifications as he thinks desirable.
- (4) Where proposals published under section 260 do not require the approval of the Secretary of State, the funding authority shall determine whether to adopt the proposals.
- (5) The funding authority shall—
- (a) make any determination under subsection (4) not later than four months after the publication of the proposals, and
  - (b) give notice in writing to the Secretary of State and the governing body of their determination.

## **262 Approval of school premises.**

- (1) Where the governing body of a grant-maintained school publish proposals under section 259, they shall, if the funding authority so direct, submit to the authority, at such time and in such form and manner as the authority may direct, the particulars mentioned in subsection (3); and particulars so submitted require the approval of the funding authority under this section.
- (2) Where the funding authority publish proposals under section 260, they shall, if in their opinion the circumstances so require, prepare the particulars mentioned in subsection (3); and particulars so prepared require adoption by the funding authority under this section.
- (3) The particulars are—
- (a) particulars of the provision made or to be made in respect of the means of access to and within the premises or proposed premises of the school, and
  - (b) such other particulars in respect of the premises or proposed premises of the school as the funding authority may require or, in the case of proposals published under section 260, as may be required.
- (4) The particulars prepared or submitted under subsection (3)(a) shall indicate the extent to which the provision referred to conforms with the minimum requirements, so far as they are relevant to school premises, of—
- (a) Design Note 18 “Access for Disabled People to Educational Buildings” published in 1984 on behalf of the Secretary of State, or
  - (b) (if that Note has been replaced by a document prescribed by regulations made or having effect as if made under the <sup>M3</sup>Town and Country Planning Act 1990) that document.

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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. 262 modified (1.4.1999) by S.I. 1999/704, reg. 5

**Marginal Citations**

**M3** 1990 c. 8.

**263 Implementation of proposals, etc.**

- (1) Where any proposals are approved or adopted under section 261, it shall be the duty of the governing body of the school to which the proposals relate to implement them.
- (2) Proposals required to be implemented under this section shall be implemented in accordance with any particulars approved or adopted under section 262.
- (3) The Secretary of State may, at the request of a governing body, modify any proposals published under section 259 which the governing body are required to implement under this section.
- (4) The Secretary of State may—
  - (a) at the request of a governing body, or
  - (b) at the request of the funding authority and after consulting the governing body, modify any proposals published under section 260 which the governing body are required to implement under this section.
- (5) Neither the governing body of a grant-maintained school nor any other person shall make any significant change in the character, or significant enlargement of the premises, of the school or transfer the school to a new site, or undertake to do any of those things, unless proposals have been published under section 259 or 260 and any requirements of section 261 have been complied with.
- (6) Subsection (5) does not—
  - (a) prevent the Secretary of State allowing such steps to be taken by the governing body of a grant-maintained school, pending compliance with those requirements and the giving or making of the approval or adoption, as the Secretary of State considers reasonable in the circumstances, or
  - (b) apply to any transfer of a school to a new site falling within section 259(2) or 260(3).

**264 Power to transfer functions under preceding provisions etc.**

- (1) The Secretary of State may by order provide for this Part to have effect with the modifications in subsections (2) to (7) in relation to any proposals published by the governing body of a grant-maintained school under section 259 after the coming into force of the order.
- (2) The governing body shall submit a copy of the proposals to the funding authority as well as to the Secretary of State.
- (3) Any objections under subsection (6) of that section to the proposals shall be submitted to the funding authority instead of to the Secretary of State.

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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)*

- (4) If any objection is made under subsection (6) of that section within the period allowed under that subsection and not withdrawn in writing within that period, then, not later than one month after the end of that period—
- (a) the funding authority shall send to the Secretary of State copies of all such objections made (and not withdrawn in writing) together with their observations on them, and
  - (b) may themselves submit to the Secretary of State an objection to the proposals.
- (5) Sections 261(1) and 263(3) shall not apply to the proposals unless—
- (a) the Secretary of State gives notice to the funding authority within two months after the submission to him of the published proposals that the proposals require his approval, or
  - (b) objections have been made under subsection (6) of section 259 within the period allowed under that subsection (unless all objections so made have been withdrawn in writing within that period).
- (6) Where sections 261(1) and 263(3) do not apply to the proposals—
- (a) the proposals shall require the approval of the funding authority,
  - (b) the funding authority may reject them, approve them without modification or, after consulting the governing body, approve them with such modifications as they think desirable, and
  - (c) where the governing body are required to implement the proposals under section 263, the funding authority may at their request modify the proposals.
- (7) Paragraph 20 of Schedule 4 shall not apply in relation to the proposals.
- (8) In this Part—
- (a) references to approval under, or the requirements of, section 261 include approval under, or the requirements of, this section, and
  - (b) references to the modification of proposals under section 263(3) include the modification of proposals under subsection (6)(c).
- (9) This section does not apply to proposals published under section 198 (to which this Chapter is applied by subsection (3) of that section); and section 263(3) is not disapplied by this section in the case of proposals treated for the purposes of this Part (by virtue of section 37(9) or 43(6)) as if they had been approved under section 261.

**265 Proposals for change of character approved before school becomes grant-maintained.**

- (1) This section applies where—
- (a) proposals for a change in the character or an enlargement of the premises of a county or voluntary school, or for the transfer of a county or voluntary school to a new site, have been approved under section [F137 or 43], and
  - (b) the school becomes a grant-maintained school before the proposals are implemented.
- (2) The proposals—
- (a) shall be treated for the purposes of this Part as if they had been published under section 260 and approved under section 261, and
  - (b) shall be implemented in accordance with any particulars approved under section 39 or (as the case may be) 44.

*Status: Point in time view as at 14/06/1997.*

*Changes to legislation: Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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)*

(3) Subsection (2) is subject to section 210.

#### Textual Amendments

**F1** Words in s. 265(1)(a) substituted (14.6.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para.18**; S.I. 1997/1468, art. 2, **Sch. 1 Pt.I**

## 266 Chapter VII: interpretation.

- (1) References in this Part to a change in the character of a school do not include any change resulting only from persons beginning or ceasing to be provided with—
- (a) part-time education suitable to the requirements of persons of any age over compulsory school age,
  - (b) part-time education suitable to the requirements of junior pupils who have not attained the age of five where the school provides full-time education for junior pupils of the same age, or
  - (c) full-time education suitable to the requirements of persons who have attained the age of 19.
- (2) Where proposals for a significant change in the character, or significant enlargement of the premises, of a school or for the transfer of a school to a new site have been approved or adopted under section 261, references in this Chapter to the proposals are references to the proposals as approved or adopted, subject to any modifications of the proposals under section 263(3) or (4).

**Status:**

Point in time view as at 14/06/1997.

**Changes to legislation:**

Education Act 1996, Chapter VII is up to date with all changes known to be in force on or before 26 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.