

*Status: Point in time view as at 15/11/2011.*

*Changes to legislation: Education Act 1996, SCHEDULE 19 is up to date with all changes known to be in force on or before 24 August 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)*

## SCHEDULES

### SCHEDULE 19

Section 166.

#### CONDUCT AND STAFFING OF NEW COUNTY, VOLUNTARY AND MAINTAINED SPECIAL SCHOOLS

#### PART I

#### GENERAL

##### *Articles of government for new schools*

- 1 (1) The requirement for there to be articles of government for a school (imposed by section 127) shall not apply in relation to a new school until the requirement for there to be an instrument of government for the school takes effect under section 99.
- (2) Before making an order under section 127 as to the articles of government for a new school, the [F1local authority] shall consult the temporary governing body and the head teacher.
- (3) Before making such an order in respect of a new school which will be a voluntary school, the authority shall—
- (a) secure the agreement of the temporary governing body to the terms of the proposed order, and
  - (b) secure the agreement of the temporary foundation governors to any provisions which are of particular concern to those governors.
- (4) Where a [F1local authority] propose to make an order under section 127 in respect of a new school but cannot secure any agreement required by this paragraph, they or (as the case may be) the temporary governing body or temporary foundation governors may refer the matter to the Secretary of State.
- (5) On a reference to him under this paragraph, the Secretary of State shall give such direction as he thinks fit.

#### Textual Amendments

F1 Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 7\(2\)](#) (with [Sch. 2 para. 7\(4\)\(5\)](#))

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

C1 [Sch. 19 para. 1\(1\)](#) modified (1.1.1999) by [S.I. 1998/3097](#), [reg. 6](#)

- 2 Section 129(2) (amendment of articles) shall not apply in relation to a new school; but if the articles of government for a new county or voluntary school contain any provisions to which section 129(1) would apply during any period when the school

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had a delegated budget (“inconsistent provisions”) they shall also include in relation to each inconsistent provision the statement required by section 129(3).

*Conduct of new schools: general*

- 3 The determination of those matters relating to the conduct of a new school which require to be determined before a governing body is constituted for the school under an instrument of government shall be under the direction of the temporary governing body, but subject to any provision made by or under this Act (including, in particular, this Schedule) or any other enactment.

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

**C2** Sch. 19 para. 3 modified (1.1.1999) by [S.I. 1998/3097](#), **reg. 7**

- 4 Regulations may make in relation to consultation with temporary governing bodies provision similar to the provision that may be made in relation to consultation with governing bodies by regulations under section 131 (consultation not required in urgent cases).

**PART II**

STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION NOT PROPOSED

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

**C3** Sch. 19 Pt. II modified (temp from 1.4.1999) by [S.I. 1999/638](#), **regs. 1, 5**

*Staffing of new county, controlled or maintained special schools*

- 5 Subject to paragraph 19(4), paragraphs 6 to 11 apply in relation to any new school for which a temporary governing body have been constituted and which will be a county, controlled or maintained special school.
- 6 (1) The complement of teaching and non-teaching posts for the school shall be determined by the [<sup>F1</sup>local authority].
- (2) Section 133(2) and (3) (staff complements) shall apply in relation to a complement determined under this paragraph.

**Textual Amendments**

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

- 7 (1) Whenever a selection panel is required by virtue of paragraph 8 or 9, it shall be constituted in accordance with this paragraph.
- (2) A selection panel shall consist of—
- (a) such number of persons appointed to it by the [<sup>F1</sup>local authority], and

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- (b) such number of temporary governors appointed to it by the temporary governing body,  
as the authority shall determine.
- (3) Neither of the numbers so determined shall be less than three; and the number determined in relation to appointments made by the temporary governing body shall not be less than the number determined in relation to appointments made by the authority.
- (4) The temporary governing body and the authority may replace, at any time, any member of a selection panel whom they have appointed.
- (5) Regulations may make provision, for the purposes of this paragraph, as to the meetings and proceedings of selection panels.

#### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

- 8 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (appointment of head teacher) shall apply in relation to the appointment of a head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.
- (2) Where—
- (a) two or more schools are to be discontinued (“the discontinued schools”), and
  - (b) the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to the new school,
- the <sup>F1</sup>local authority] may, in consultation with the temporary governing body, appoint one of the head teachers of the discontinued schools as the first head teacher for the new school, instead of following the procedure set out in sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 (as applied by sub-paragraph (1) above).
- (3) If the post of head teacher is vacant, the authority may, if they think fit, appoint an acting head teacher after consulting the temporary governing body.

#### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

- 9 (1) Subject to sub-paragraph (2) below, sub-paragraphs (3) to (11) of paragraph 3 of Schedule 13 shall apply in relation to the appointment of a deputy head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.

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- (2) If the [<sup>F1</sup>local authority] so decide, those provisions of Schedule 13 shall not so apply and instead the general staff appointment provisions shall apply in relation to the appointment of a deputy head teacher for the school—
- (a) as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government); and
  - (b) subject to any necessary modifications.
- (3) Where (in accordance with sub-paragraph (1)) the appointment of a deputy head teacher is on the recommendation of a selection panel and the head teacher is not a member of the panel, the head teacher—
- (a) shall be entitled to be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
  - (b) whether or not he attends any such proceedings, shall be consulted by the panel before they make any recommendation to the [<sup>F1</sup>local authority].
- (4) In this paragraph and paragraph 10 “the general staff appointment provisions” means the following provisions of Schedule 13—
- (a) paragraph 5(3);
  - (b) paragraph 6(2) to (7);
  - (c) paragraph 7(2) and (3); and
  - (d) paragraph 8(2) and (3).

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

- 10 (1) The general staff appointment provisions shall apply in relation to the appointment of a person to a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government).
- (2) The [<sup>F1</sup>local authority] shall consult the temporary governing body and the head teacher before appointing any person to work solely at the school otherwise than—
- (a) in a teaching post,
  - (b) in a non-teaching post which is part of the complement of the school, or
  - (c) solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.
- (3) This paragraph does not apply in relation to a temporary appointment pending—
- (a) the return to work of the holder of the post in question, or
  - (b) the taking of any steps required by virtue of this Schedule in relation to the vacancy in question.
- (4) Paragraph 9(4) applies for the purposes of this paragraph.

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#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

- 11 (1) The clerk to the temporary governing body shall be appointed by the [<sup>F1</sup>local authority].
- (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 96 or 97, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of a clerk under section 135.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

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

- C4** Sch. 19 para. 11(2) excluded (1.1.1999) by [S.I. 1998/3097](#), **reg. 8(f)**

- 12 Subject to paragraph 19(4), a [<sup>F1</sup>local authority] shall, in discharging their duty under paragraph 21 of Schedule 9 (temporary governing bodies) to provide information to the temporary governing body of a new school which will be a county, controlled or maintained special school, inform the temporary governing body, in particular—
- of the number of members of any selection panel required by virtue of paragraph 8 or 9 above who are to be appointed by the authority and the number who are to be appointed by the temporary governing body;
  - where the authority intend to exercise the power conferred on them by paragraph 8(2) above, of their intention to do so;
  - of the provision which is to apply in relation to the appointment of the deputy head teacher of the school;
  - of the complement of staff for the school; and
  - of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Staffing of new aided schools*

- 13 Subject to paragraph 19(5), paragraphs 14 to 16 apply in relation to a new school which will be an aided school.

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- 14 Subject to paragraph 15(1), the [<sup>F1</sup>local authority] and the temporary governing body shall have the same powers, and be under the same duties, for the purposes of the appointment and dismissal of staff at the school as would the authority and the governing body for an aided school whose articles of government provided for—
- (a) staff employed solely in connection with the provision of school meals to be appointed by the authority, and
  - (b) other staff employed at the school to be appointed by the governing body.

**Textual Amendments**

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

- 15 (1) The first appointment of a clerk to the temporary governing body shall be made by the promoters of the school (that is, the persons making the relevant proposals).
- (2) When the arrangement for the constitution of the temporary governing body comes to an end under section 97, the person who was the clerk to that body shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.

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

**C5** Sch. 19 para. 15(2) excluded (1.1.1999) by [S.I. 1998/3097](#), **reg. 8(f)**

- 16 (1) The [<sup>F1</sup>local authority] shall, with a view to enabling staff to be appointed in good time, notify the temporary governing body of any determination, prohibition or direction they intend to make or give pursuant to subsection (2)(b), (4)(a) or (b) or (5) of section 134 (staffing of aided schools).
- (2) The authority shall, in discharging their duty under paragraph 21 of Schedule 9 to provide information to the temporary governing body of a new school which will be an aided school, inform the temporary governing body, in particular, of the authority's proposals with regard to the appointment of staff for the school and the timing of appointments.

**Textual Amendments**

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

*Expenditure on staff for new schools*

- 17 Where a temporary governing body are constituted for a new school, the [<sup>F1</sup>local authority] shall be under the same duty to defray the expenses incurred in relation to the staff appointed in accordance with paragraphs 6 to 11 or (as the case may be) 14 and 15, as they would be if the relevant proposals had been implemented and the temporary governing body were the governing body of the school.

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#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

### PART III

#### STAFFING OF NEW SCHOOLS: FINANCIAL DELEGATION PROPOSED

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

- C6** Sch. 19 Pt. III modified (temp. from 1.4.1999) by [S.I. 1999/638](#), **regs. 1, 5**

#### *Adaptation of references*

- 18 For the purposes of the application (in accordance with paragraphs 19 to 24) of sections 136 to 141 and Schedule 14 in relation to new schools which will be county or voluntary schools—
- (a) references to the governing body of a school shall be read as including the temporary governing body of a new school;
  - (b) references to a county school shall be read as including a new school which on implementation of the relevant proposals will be a county school; and
  - (c) references to a voluntary school of a particular category, or maintained by a particular <sup>F1</sup>local authority], shall be read as including a new school which on implementation of the relevant proposals will be a voluntary school of that category, or maintained by that authority.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Application or otherwise of provisions about staffing*

- 19 (1) Subject to paragraphs 20 to 24, section 136 or (as the case may be) section 137 (staffing of county or voluntary schools with delegated budgets) shall apply to a new school which on implementation of the relevant proposals will be a school of a category to which that section applies not only at any time when (by virtue of Schedule 12) the new school has a delegated budget but also at any time when it has a temporary governing body and sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the delegation requirement under the scheme will apply to the school on or before the implementation of the relevant proposals.
- (3) This sub-paragraph is satisfied if the <sup>F1</sup>local authority] propose to exercise any power under the scheme to delegate the management of the school's budget share for a financial year by making such a delegation—

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- (a) to the temporary governing body before the implementation of the relevant proposals, or
  - (b) to the governing body of the school on implementation of those proposals.
- (4) Paragraphs 6 to 12 of this Schedule shall not apply in relation to a new school to which section 136 for the time being applies.
- (5) Paragraphs 14 to 16 of this Schedule shall not apply in relation to a new school to which section 137 for the time being applies.

#### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

- 20 Sections 136, 137 and 138 and Schedule 14 (staffing of schools with delegated budgets) shall apply, in the case of a new school, for the purposes only of—
- (a) the appointment of staff at the school, and
  - (b) the taking of such steps with respect to any other matters referred to in those provisions as may be appropriate in preparation for the conduct of the school following implementation of the relevant proposals.
- 21 In the case of a new school which is a proposed county, controlled, aided or special school, no appointments of staff for the school shall be made by the [<sup>F1</sup>local authority] before the constitution of a temporary governing body for the school.

#### Textual Amendments

**F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

- 22 Section 139(2) and (5) (payments in respect of dismissal) shall not apply in relation to a new school.
- 23 Any provision included in a scheme by virtue of subsection (3) of section 140 (community schools), so far as it relates to the appointment of staff at a school to which that section applies, shall apply in relation to a new school which on implementation of the relevant proposals will be a school to which that section applies.
- 24 (1) Section 141 (amendment of articles) shall not apply in relation to a new school.
- (2) The [<sup>F1</sup>local authority] shall, however, incorporate—
- (a) the statement mentioned in section 141(2) in the articles of government for a new school which will be a county or controlled school and to which section 136 applies, or
  - (b) the statement mentioned in section 141(3) in the articles of government for a new school which will be an aided school and to which section 137 applies.



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#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

## PART IV

### OTHER MATTERS RELATING TO CONDUCT ETC. OF NEW SCHOOLS

#### *Preparation of curriculum*

- 25 (1) The head teacher of a new school for which a temporary governing body have been constituted shall, in preparing to discharge his functions under Part V in relation to the curriculum for the school, consult that body and the <sup>F1</sup>local authority].
- (2) Any authority who have been consulted under this paragraph shall inform the head teacher of the resources which are likely to be made available to the school; and the head teacher shall have regard to any information so given to him.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *School terms, holidays and sessions*

- 26 (1) Pending the coming into force of the articles of government for a new school which will be a county or controlled school—
- (a) the dates when the school terms and holidays are to begin and end shall be determined by the <sup>F1</sup>local authority], and
- (b) the times of the school sessions shall be determined by the temporary governing body after consultation with the authority.
- (2) Pending the coming into force of the articles of government for a new school which will be an aided school—
- (a) the dates and times when the school terms and holidays are to begin and end, and
- (b) the times of the school sessions,
- shall be determined by the temporary governing body.
- (3) In this paragraph “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

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#### **Textual Amendments**

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Discipline*

- 27 Pending the coming into force of the articles of government for a new school, section 154(2) to (6) (responsibility for discipline) shall apply—
- (a) in relation to the head teacher, and
  - (b) subject to any necessary modifications, in relation to the temporary governing body,
- as if they had effect as independent enactments (rather than for the purposes of the provision to be made by articles of government).

#### *Reports and information*

- 28 (1) A temporary governing body shall provide the [F1local authority] with such reports in connection with the discharge of their functions as the authority may require (either on a regular basis or from time to time).
- (2) The head teacher of a new school for which a temporary governing body have been constituted shall provide that body or (as the case may be) the [F1local authority] with such reports in connection with the discharge of his functions as that body or the authority may require (either on a regular basis or from time to time).
- (3) In the case of a new school which will be an aided school—
- (a) the [F1local authority] shall notify the temporary governing body of any requirement imposed by them on the head teacher under sub-paragraph (2), and
  - (b) the head teacher shall provide the temporary governing body with a copy of any report which he makes in complying with any such requirement.

#### **Textual Amendments**

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Consultation on expenditure by [F1local authority]*

- 29 (1) Where a temporary governing body have been constituted for a new school, the [F1local authority] shall consult that body and the head teacher on their proposed expenditure on books, equipment and stationery for the school.
- (2) Sub-paragraph (1) does not apply in relation to a new school which has a delegated budget.

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**Changes to legislation:**

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