

*Status: Point in time view as at 01/02/2006.*

*Changes to legislation: School Standards and Framework Act 1998, Cross Heading: Procedure for making instrument is up to date with all changes known to be in force on or before 22 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)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 12

#### INSTRUMENTS OF GOVERNMENT

##### Textual Amendments

- F1** Schs. 9-13 repealed (1.10.2002 for E. for specified purposes, 1.9.2003 for E., 1.9.2004 for W. for specified purposes, 31.10.2005 for W. for specified purposes, 31.3.2008 for W. in so far as not already in force) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); [S.I. 2002/2439](#), [art. 3](#); [S.I. 2003/1667](#), [art. 4](#); [S.I. 2004/1728](#), art. 5, [Sch. Pt. 2](#); [S.I. 2005/2910](#), art. 4, [Sch.](#); [S.I. 2007/3611](#), art. 4(2), [Sch. Pt. 2](#)

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

- C1** Sch. 12 savings for effects of 2002 c. 32, s. 215(2), Sch. 22 Pt. 3 (W.) (31.10.2005) by [The Education Act 2002 \(Transitional Provisions and Consequential Amendments\) \(Wales\) Regulations 2005 \(S.I. 2005/2913\)](#), [reg. 5](#)

##### Commencement Information

- II** Sch. 12 wholly in force at 1.9.1999; Sch. 12 in force for certain purposes at Royal Assent see s. 145(5); Sch. 12 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), [art. 2\(1\)](#), [Sch. 1](#) (with arts. 3-5, Schs. 5-7).

#### *Procedure for making instrument*

- 3 (1) The governing body shall prepare a draft of the instrument and submit it to the local education authority.
- (2) Where the school has foundation governors, the governing body shall not submit the draft to the authority unless the following persons have agreed to the contents of the draft, namely—
- the foundation governors;
  - any trustees under a trust deed relating to the school; and
  - in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority.
- (3) On receiving the draft the authority shall consider whether it complies with all applicable statutory provisions, and if—
- the authority are content with the draft, or
  - there is agreement between the authority, the governing body and (if the school has foundation governors) the persons mentioned in subparagraph (2) that the draft should be revised to any extent,
- the instrument shall be made by order of the authority in the form of the draft or (as the case may be) in the form of the revised draft.

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- (4) If, in the case of a school which has foundation governors, there is at any time disagreement as to the contents of the draft among the bodies and persons mentioned in sub-paragraph (3)(b), any of those bodies or persons may refer the draft to the Secretary of State; and on such a reference the Secretary of State shall give such direction as he thinks fit having regard, in particular, to the category of school to which the school belongs.
- (5) If neither of paragraphs (a) and (b) of sub-paragraph (3) applies in the case of a school which does not have foundation governors, the authority shall—
- (a) notify the governing body of the reasons why they are not content with the draft instrument, and
  - (b) give the governing body a reasonable opportunity to reach agreement with the authority on revising the draft;
- and the instrument shall be made by order of the authority either in the form of a revised draft agreed between the authority and the governing body or (in the absence of such agreement) in such form as the authority think fit having regard, in particular, to the category of school to which the school belongs.
- (6) When taking any decision as to the name of the school the governing body, the authority and (if the school has foundation governors) the persons mentioned in sub-paragraph (2), shall have regard to any guidance given from time to time by the Secretary of State.
- (7) Nothing in this paragraph requires the agreement of, or enables any objection to be made by, any body or person to any part of a draft instrument that reflects any decision taken by the governing body or any other person which the governing body or that person is required or authorised to take by virtue of any statutory provision.]

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

- C1** Sch. 12 para. 3 applied with modification (3.12.1998) by [S. I. 1998/2763, reg. 6\(5\)](#)
- C2** Sch. 12 para. 3(2)-(6) modified (W.) (1.9.2001) by [S.I. 2001/2678, reg. 12](#)

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