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SCHEDULES

SCHEDULE 6

STATUTORY PROPOSALS: PROCEDURE AND IMPLEMENTATION

Modifications etc. (not altering text)

- C1** Sch. 6 modified (1.9.1999) by S.I. 1999/704, regs. 21, 22, **Sch.**
Sch. 6 continued (1.9.2001) by S.I. 2001/2678, **reg. 2(2)**
- C1** Schs. 6, 7: power to modify conferred (1.4.2003 for E.) by Education Act 2002 (c. 32), **ss. 74(2)(a),**
216(4) (with **ss. 210(8), 214(4)**); S.I. 2003/124, **art. 4**
- C3** Sch. 6 applied (1.9.2006) by 1996 c. 56, **s. 529(2)** (as amended by Education Act 2005 (c. 18), s. 125(4),
Sch. 12 para. 2; S.I. 2006/2129, **art. 4**)

PART I

PROCEDURE FOR DEALING WITH STATUTORY PROPOSALS: ENGLAND

Modifications etc. (not altering text)

- C1** Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(1), 10, **Sch. 1.**
Sch. 6 Pt. I applied (with modifications) (1.9.1999) by S.I. 1999/2259, regs. 5(2), 10, **Sch. 1.**
Sch. 6 Pt. 1 (paras. 1-5) applied (with modifications) (E.) (1.9.2000) by S.I. 2000/2195, **reg. 4(1), Sch. 1**
(as amended (15.9.2003) by The Education (Change of Category of Maintained Schools) (Amendment)
(England) Regulations 2003 (S.I. 2003/2136), **regs. 1(1), 10**)
- C1** Sch. 6 Pt. I amendment to earlier affecting provision S.I. 2000/2195, Sch. 1 (E.) (15.9.2003) by The
Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations 2003 (S.I.
2003/2136), **regs. 1(1), 10**
- C1** Sch. 6 Pt. 1 applied (with modifications) by S.I. 2000/2195, **reg. 4(3), Schs. 2A, 2B** (as inserted (1.8.2005)
by The Education (Change of Category of Maintained Schools) (Amendment) (England) Regulations
2005 (S.I. 2005/1731), **regs. 1(1), 5, 7**)

Approval of proposals

- 3 (1) Proposals published under section 28, [F¹28A,] 29 or 31 require approval under this paragraph if—
- (a) the proposals were published by a local education authority and either—
 - (i) objections to the proposals have been made in accordance with paragraph 2 and any of them have not been withdrawn in writing within the [F²objection period][F²representation period]; or
 - (ii) such approval is required by virtue of paragraph 4(5); or
 - (b) the proposals were published by a governing body or promoters.

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- (2) Where any proposals require approval under this paragraph, they shall be considered in the first instance by the relevant committee, who may—
 - (a) reject the proposals,
 - (b) approve them without modification, ^[F3]or
 - (c) approve them with such modifications as the committee think desirable after consulting such persons or bodies as may be prescribed ^[F4]or]
 - ^[F4](d) if the committee think it appropriate to do so, and subject to regulations, refer them to the adjudicator.]

^[F5](2A) The requirement to make a decision under sub-paragraph (2) in the case of proposals of a prescribed description only applies if, at the time when the decision falls to be made under that sub-paragraph, the committee are satisfied that the proposals do not relate to any relevant proposals.

(2B) In sub-paragraph (2A), “relevant proposals” means proposals of a description prescribed for the purposes of this sub-paragraph.

(2C) In deciding for the purposes of sub-paragraph (2A) whether any proposals are related the relevant committee shall have regard to any guidance given from time to time by the Secretary of State.]

(3) Any approval given under this paragraph may be expressed to take effect only if an event specified in the approval occurs by a date so specified; and regulations may prescribe the events that may be so specified.

(4) When deciding whether or not to give any approval under this paragraph the committee shall have regard to—

(a) any guidance given from time to time by the Secretary of State, ^{F6}...

^{F6}(b)

and the committee shall not give any such approval unless they are satisfied that adequate financial resources will be available to enable the proposals to be implemented.

(5) If—

(a) by the end of such period as may be specified in or determined in accordance with regulations, the committee have not voted on the question whether to give any approval under this paragraph, and

(b) the body or promoters by whom the proposals were published request the committee to refer the proposals to the adjudicator,

they shall refer the proposals to the adjudicator.

Regulations made for the purposes of this sub-paragraph (or any other corresponding provision of this Act) may be framed by reference to the opinion of the committee.

(6) If the committee—

(a) have voted on any matter which (in accordance with regulations under paragraph 5 of Schedule 4) falls to be decided by them under this paragraph by a unanimous decision, but

(b) have failed to reach such a decision on that matter,

they shall refer the proposals to the adjudicator.

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- [^{F7}(6A) Where the committee reject proposals published by promoters for the establishment of a new foundation or voluntary school, the committee shall, if the promoters so request, refer the proposals to the adjudicator.
- (6B) Sub-paragraph (6A) does not apply in relation to proposals published—
- (a) by the Diocesan Board of Education for a diocese of the Church of England, or
 - (b) by or on behalf of the Bishop and Trustees of a diocese of the Roman Catholic Church.
- (6C) Where the committee reject proposals to make an alteration to a school which are published by the governing body of the school under section 28, and—
- (a) the school is of a prescribed description, and
 - (b) the alteration is of a prescribed description,
- the committee shall refer the proposals to the adjudicator if the governing body so request.]
- [^{F8}(6D) If by the end of such period as may be specified in regulations, the committee have not determined whether to give any approval under this paragraph, they shall refer the proposals to the adjudicator.]
- (7) Where any proposals are referred to the adjudicator under [^{F9}sub-paragraph (5) or (6)] [^{F9}this paragraph]—
- (a) he shall consider the proposals afresh; and
 - (b) sub-paragraphs (2) to (4) [^{F10}(other than sub-paragraph (2)(d))] shall apply to him in connection with his decision on the proposals as they apply to the committee.
- (8) Sub-paragraph (1) does not prevent the body or promoters by whom any proposals have been published under section 28, [^{F11}28A,] 29 or 31 from withdrawing those proposals by notice in writing given to the relevant committee at any time before the proposals are determined under this paragraph.

Textual Amendments

- F1** Word in Sch. 6 para. 3(1) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 13(4)(a)**; S.I. 2006/2129, art. 4
- F2** Words in Sch. 6 para. 3(1)(a)(i) substituted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 10 para. 3(2)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3 (with art. 5)
- F3** Word in Sch. 6 para. 3(2)(b) repealed (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3
- F4** Sch. 6 para. 3(2)(d) and preceding word inserted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 10 para. 3(3)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3 (with art. 5)
- F5** Sch. 6 para. 3(2A)-(2C) inserted (1.4.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 115(2)** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4
- F6** Sch. 6 para. 3(4)(b) repealed (1.3.2005 for E., 1.9.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 1**; S.I. 2005/394, **art. 2(1)(I)**; S.I. 2006/885, **art. 2(3)(b)**
- F7** Sch. 6 para. 3(6A)-(6C) inserted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 10 para. 3(4)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3 (with art. 5)
- F8** Sch. 6 para. 3(6D) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 13(4)(b)**; S.I. 2006/2129, art. 4

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- F9** Words in Sch. 6 para. 3(7) substituted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 10 para. 3(5)(a)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3 (with art. 5)
- F10** Words in Sch. 6 para. 3(7) inserted (1.6.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 10 para. 3(5)(b)** (with ss. 210(8), 214(4)); S.I. 2003/1115, art. 3 (with art. 5)
- F11** Word in Sch. 6 para. 3(8) inserted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 12 para. 13(4)(c)**; S.I. 2006/2129, art. 4

Modifications etc. (not altering text)

- C1** Sch. 6 para. 3 modified (1.9.1999) by S.I. 1999/2213, reg. 15(2)(4), **Sch. 5 para. 3** (as amended by S.I. 2003/1229, regs. 1(1), 17)
- C2** Sch. 6 para. 3 restricted (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 11 para. 5(3)(b)**; S.I. 2006/2129, art. 4
- C4** Sch. 6 para. 3(1)(a) excluded (1.9.2006) by Education Act 2005 (c. 18), s. 125(4), **Sch. 11 para. 6(1)**; S.I. 2006/2129, art. 4

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