

*Status: Point in time view as at 28/04/2014.*

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## SCHEDULES

### SCHEDULE 1 **E+W**

Section 19(6)

#### INCORPORATION AND POWERS OF GOVERNING BODY

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

- C1** Sch. 1 modified (E.) (temp. from 1.10.2002) by [The Education Act 2002 \(Modification of Provisions\) \(England\) Regulations 2002 \(S.I. 2002/2316\)](#), **reg. 3(1)(2)**
- C2** Sch. 1 applied (with modifications) (10.7.2003) by [New Schools \(General\) \(England\) Regulations 2003 \(S.I. 2003/1558\)](#), **regs. 1, 32**
- C3** Sch. 1 applied (with modifications) (31.10.2005) by [The New Maintained Schools \(Wales\) Regulations 2005 \(S.I. 2005/2912\)](#), **regs. 1(1), 31**
- C4** Sch. 1 applied (with modifications) (31.10.2005) by [The New Maintained Schools \(Wales\) Regulations 2005 \(S.I. 2005/2912\)](#), **regs. 1(1), 30(1)** (with **reg. 30(2)**)
- C5** Sch. 1 applied (with modifications) (25.5.2007) by [The School Governance \(New Schools\) \(England\) Regulations 2007 \(S.I. 2007/958\)](#), **regs. 1, 30**
- C6** Sch. 1 applied (with modifications) (25.5.2007) by [The School Governance \(New Schools\) \(England\) Regulations 2007 \(S.I. 2007/958\)](#), **regs. 1, 31**

##### Introductory

- 1 In the following paragraphs of this Schedule—
- “the 1998 Act” means the School Standards and Framework Act 1998 (c. 31);
  - “the governing body” means the governing body of a maintained school incorporated under section 19(1).

##### Commencement Information

- I1** Sch. 1 para. 1 partly in force; Sch. 1 para. 1 not in force at Royal Assent, see s. 216; Sch. 1 para. 1 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in **art. 4, Sch.**)
- I2** Sch. 1 para. 1 in force at 31.10.2005 for W. by [S.I. 2005/2910](#), **art. 4, Sch.**

##### Name and seal of governing body

- 2 (1) The governing body shall be known as “The governing body of...” with the addition of the name of the school as for the time being set out in the school’s instrument of government.
- (2) The application of the seal of the governing body must be authenticated by the signature—
- (a) of the chairman of the governing body, or
  - (b) of some other member authorised either generally or specially by the governing body to act for that purpose,

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together with the signature of any other member.

- (3) Every document purporting to be an instrument made or issued by or on behalf of the governing body and—
- (a) to be duly executed under the seal of the governing body, or
  - (b) to be signed or executed by a person authorised by the governing body to act in that behalf,
- shall be received in evidence and treated, without further proof, as being so made or issued unless the contrary is shown.

#### Commencement Information

- I3** Sch. 1 para. 2 partly in force; Sch. 1 para. 2 not in force at Royal Assent, see s. 216; Sch. 1 para. 2 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I4** Sch. 1 para. 2 in force at 31.10.2005 for W. by [S.I. 2005/2910](#), [art. 4](#), [Sch.](#)

#### *Powers of governing body*

- 3 (1) The governing body may do anything which appears to them to be necessary or expedient for the purposes of, or in connection with—
- (a) the conduct of the school, or
  - (b) the provision of facilities or services under section 27.
- (2) The governing body may provide advice or assistance to—
- (a) the governing body of any other maintained school, whether or not maintained by the same [<sup>F1</sup>local authority], or
  - (b) any [<sup>F1</sup>local authority].
- [<sup>F2</sup>(2A) The governing body of a maintained school in England (other than the governing body of a maintained nursery school) may provide advice and assistance to the proprietor of an Academy.
- (2B) The governing body of a maintained school in England may be a member of the foundation of another maintained school in England.

In this sub-paragraph “foundation” has the meaning given by section 21(3) of the 1998 Act, except that it does not include a foundation established under that Act.]

- (3) The powers conferred by sub-paragraphs (1) [<sup>F3</sup>, (2) and (2A)] include, in particular, power—
- (a) to borrow such sums as the governing body think fit and, in connection with such borrowing, to grant any mortgage, charge or other security over any land or other property of the governing body,
  - (b) to acquire and dispose of land and other property,
  - (c) to enter into contracts,
  - (d) to invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on,
  - (e) to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes, and

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- (f) to do anything incidental to the conduct of the school, the provision of advice or assistance under sub-paragraph (2) [<sup>F4</sup> or (2A)] , or the provision of facilities and services under section 27.
- (4) The power to borrow money and grant security mentioned in sub-paragraph (3)(a) may only be exercised with the written consent—
- (a) of the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), or
- (b) if an order under sub-paragraph (5) so provides, of the [<sup>F1</sup>local authority];
- and any such consent may be given for particular borrowing or for borrowing of a particular class.
- (5) The Secretary of State or the National Assembly for Wales may by order make provision for any of his or its functions under sub-paragraph (4) to be instead exercisable—
- (a) in the case of all maintained schools, or
- (b) in the case of any class of such schools specified in the order,
- by the [<sup>F5</sup>local authorities] by whom those schools are maintained.
- (6) In exercising those functions those authorities shall comply with any directions contained in an order made by the Secretary of State or the National Assembly for Wales.
- (7) Where the school is a foundation, voluntary aided or foundation special school, the power to enter into contracts mentioned in sub-paragraph (3)(c) includes power to enter into contracts for the employment of teachers and other staff, but no such contracts may be entered into by the governing body of a community, voluntary controlled or community special school or of a maintained nursery school.
- (8) Sub-paragraphs (1) to (3) have effect subject to—
- (a) any provisions of the school’s instrument of government, and
- (b) any provisions of a scheme under section 48 of the 1998 Act ( [<sup>F5</sup>local authorities]’ financial schemes) which relates to 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 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**
- F2** Sch. 1 para. 3(2A)(2B) inserted (19.7.2010) by [Children, Schools and Families Act 2010 \(c. 26\)](#), **ss. 6(2), 29(5)** (with s. 27); [S.I. 2010/1817](#), art. 2
- F3** Words in Sch. 1 para. 3(3) substituted (19.7.2010) by [Children, Schools and Families Act 2010 \(c. 26\)](#), **ss. 6(3)(a), 29(5)** (with s. 27); [S.I. 2010/1817](#), art. 2
- F4** Words in Sch. 1 para. 3(3)(f) inserted (19.7.2010) by [Children, Schools and Families Act 2010 \(c. 26\)](#), **ss. 6(3)(b), 29(5)** (with s. 27); [S.I. 2010/1817](#), art. 2
- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(3)**

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

- C7** Sch. 1 para. 3 modified (temp. from 2.9.2002) by [The Education Act 2002 \(Transitional Provisions etc.\) \(England\) Regulations 2002 \(S.I. 2002/2113\)](#), **reg. 3(1)(3)**
- C8** Sch. 1 para. 3(1)(2) applied (with modifications) (1.2.2008) by [The Education \(Pupil Referral Units\) \(Application of Enactments\) \(England\) Regulations 2007 \(S.I. 2007/2979\)](#), reg. 1(1), **Sch. 1 para. 20**

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- C9** Sch. 1 para. 3(1)-(6) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20 (as inserted (1.4.2013) by [The Pupil Referral Units \(Miscellaneous Amendments\) \(No.2\) \(England\) Regulations 2012 \(S.I. 2012/3158\)](#), regs. 1, **3(4)**)
- C10** Sch. 1 para. 3(8) applied (with modifications) by S.I. 2007/2979, Sch. 1 para. 20 (as inserted (1.4.2013) by [The Pupil Referral Units \(Miscellaneous Amendments\) \(No.2\) \(England\) Regulations 2012 \(S.I. 2012/3158\)](#), regs. 1, **3(4)**)

#### Commencement Information

- I5** Sch. 1 para. 3(1) except para. (a) in force at 2.9.2002 for E. by [S.I. 2002/2002](#), **art. 4**  
 Sch. 1 para. 3(3)-(8) in force at 2.9.2002 for specified purposes for E. by [S.I. 2002/2002](#), **art. 4**  
 Sch. 1 para. 3 in force at 1.10.2002 insofar as not already in force for E. by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I6** Sch. 1 para. 3(1)(a)(2) in force at 31.10.2005 for W. by [S.I. 2005/2910](#), **art. 4**, **Sch.**
- I7** Sch. 1 para. 3(1)(b) in force at 1.9.2003 for W. by [S.I. 2003/1718](#), **art. 5**, **Sch. Pt. II**
- I8** Sch. 1 para. 3(3)-(8) in force at 1.9.2003 for specified purposes for W. by [S.I. 2003/1718](#), **art. 5**, **Sch. Pt. II**
- I9** Sch. 1 para. 3(3)-(8) in force at 31.10.2005 for W. so far as not already in force by [S.I. 2005/2910](#), **art. 4**, **Sch.**

- 4 Regulations may make further provision—
- (a) as to the general powers of the governing body, and
  - (b) as to other matters relating to it as a body corporate.

#### Commencement Information

- I10** Sch. 1 para. 4 partly in force; Sch. 1 para. 4 not in force at Royal Assent, see s. 216; Sch. 1 para. 4 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), **art. 3** (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I11** Sch. 1 para. 4 in force at 31.10.2005 for W. by [S.I. 2005/2910](#), **art. 4**, **Sch.**

#### *Dissolution of governing body*

- 5 (1) If the school is discontinued, the governing body are dissolved by virtue of this paragraph—
- (a) on the discontinuance date, or
  - (b) on such later date as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may specify by order made before the discontinuance date.

[<sup>F6</sup>(1A) Sub-paragraph (1) does not apply if—

- (a) the school is a federated school in Wales, and
- (b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.

(1B) “Federation” in sub-paragraph (1A) means a group of schools that are federated by virtue of Chapter 1 of Part 2 of the Education (Wales) Measure 2011 or were federated by virtue of section 24 before the coming into force of that Chapter, and “federated school” means a school forming part of a federation.]

[<sup>F7</sup>(1A) Sub-paragraph (1) does not apply if—

- (a) the school is a federated school in England, and
- (b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.

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(1B) “Federation” and “federated school” have the meanings given by section 24(2).]

(2) In this paragraph “the discontinuance date” means—

- (a) in relation to a school in England, whichever of the following is relevant—
- (i) the date on which proposals for discontinuing the school are implemented under Part 3 of Schedule 2 to the Education and Inspections Act 2006<sup>F8</sup> ...,
  - (ii) the date on which the school is discontinued under section 30 of the 1998 Act,<sup>F9</sup> ...
  - (iii) the date specified in a direction given under section 17(1) or 68(1) of the Education and Inspections Act 2006<sup>F10</sup>, or
  - (iv) the date on which a local authority are required to cease to maintain the school under section 6(2) of the Academies Act 2010;]
- (b) in relation to a school in Wales, whichever of the following is relevant—
- <sup>F11</sup>(i) the date on which proposals for discontinuing the school are implemented under Part 3 of the School Standards and Organisation (Wales) Act 2013,
  - (ii) the date on which the school is discontinued under section 80 of the School Standards and Organisation (Wales) Act 2013, or
  - (iii) the date specified in a direction given under section 16(2) or 81(1) of the School Standards and Organisation (Wales) Act 2013]

#### Textual Amendments

- F6** Sch. 1 para. 5(1A)(1B) inserted (W.) (28.4.2014) by [Education \(Wales\) Measure 2011 \(nawm 7\)](#), [ss. 19\(7\)](#), [33\(2\)](#); [S.I. 2014/1066](#), [art. 2](#)
- F7** Sch. 1 para. 5(1A)(1B) inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), [ss. 39](#), [82\(3\)](#); [S.I. 2012/1087](#), [art. 3](#)
- F8** Words in Sch. 1 para. 5(2)(a)(i) repealed (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009 \(Consequential Amendments\) \(England and Wales\) Order 2010 \(S.I. 2010/1080\)](#), [art. 1\(2\)\(a\)\(b\)](#), [Sch. 1 para. 49](#), [Sch. 2 Pt. 1](#) (with [art. 2\(3\)](#))
- F9** Word in Sch. 1 para. 5(2)(a) omitted (29.7.2010) by virtue of [Academies Act 2010 \(c. 32\)](#), [s. 19\(2\)](#), [Sch. 2 para. 15](#); [S.I. 2010/1937](#), [art. 2](#), [Sch. 1](#)
- F10** Sch. 1 para. 5(2)(a)(iv) and word inserted (29.7.2010) by [Academies Act 2010 \(c. 32\)](#), [s. 19\(2\)](#), [Sch. 2 para. 15](#); [S.I. 2010/1937](#), [art. 2](#), [Sch. 1](#)
- F11** Sch. 1 para. 5(2)(a)(i)-(iii) substituted (1.10.2013) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), [s. 100\(4\)](#), [Sch. 5 para. 21\(11\)](#); [S.I. 2013/1800](#), [art. 3\(j\)](#)

#### Commencement Information

- I12** Sch. 1 para. 5 partly in force; Sch. 1 para. 5 not in force at Royal Assent, see [s. 216](#); Sch. 1 para. 5 in force for E. at 1.10.2002 by [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#))
- I13** Sch. 1 para. 5 in force at 31.10.2005 for W. by [S.I. 2005/2910](#), [art. 4](#), [Sch.](#)

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