

## SCHEDULES

### SCHEDULE 8

Section 70

#### PROPOSALS FOR ADDITIONAL SECONDARY SCHOOLS: SUPPLEMENTARY

##### *Introductory*

- 1 (1) This Schedule applies to proposals published under section 70.
- (2) In this Schedule—
  - “interested parties”, in relation to a proposal, means the promoters of the proposal and any other person who made a proposal pursuant to the same notice under section 70;
  - “promoters”, in relation to a proposal, means the persons who made the proposal (but does not include a local education authority);
  - “school organisation committee”, in relation to a proposal, means the school organisation committee (within the meaning of section 24(4) of the School Standards and Framework Act 1998 (c. 31)) for the area of the local education authority which published the proposal.

##### *Procedure before approval by Secretary of State*

- 2 (1) Regulations shall make provision for the submission of a proposal for decision by the Secretary of State after being considered and commented on by the school organisation committee.
- (2) Regulations under this paragraph may in particular make provision—
  - (a) for the making of objections or comments to a local education authority in relation to proposals published by them;
  - (b) for the submission of proposals to the school organisation committee;
  - (c) for consultation by the school organisation committee;
  - (d) for consideration of proposals by the school organisation committee (which may include provision for the committee to have regard to guidance given from time to time by the Secretary of State);
  - (e) for the submission of proposals to the Secretary of State;
  - (f) for the withdrawal of proposals;
  - (g) requiring any of the following to provide such information to such persons at such times as the regulations may prescribe—
    - (i) the promoters or, if the proposal was made by a local education authority, that authority;
    - (ii) the school organisation committee.

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*Status: This is the original version (as it was originally enacted).*

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#### *Approval of proposals for maintained schools*

- 3 (1) Where, under paragraph 2, the Secretary of State receives a proposal to establish a community, foundation or voluntary school, he shall—
- (a) reject the proposal,
  - (b) approve it without modification, or
  - (c) approve it with such modifications as he thinks desirable after consulting such persons as may be prescribed.
- (2) 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.
- (3) Where the specified event does not occur by that date (or, where a later date is specified under paragraph 5(2)(b), that later date), the proposal falls to be considered afresh under sub-paragraph (1).
- (4) The Secretary of State shall notify the interested parties and the local education authority which published the proposal of any decision under sub-paragraph (1).

#### *Negotiations to establish an Academy*

- 4 Where the Secretary of State receives under paragraph 2 a proposal to establish an Academy, he shall notify the interested parties and the local education authority which published the proposal if he decides to commence negotiations with a view to entering an agreement under section 482 of the Education Act 1996 (c. 56) for the establishment of the Academy.

#### *Requirement to implement proposal to establish maintained school*

- 5 (1) Where any proposal to establish a community, foundation or voluntary school has been approved under paragraph 3, then (subject to the following provisions of this paragraph) the proposal shall be implemented, in the form in which it was so approved, in accordance with this Schedule.
- (2) At the request of any prescribed persons, the Secretary of State—
- (a) may modify the proposal after consulting such persons as may be prescribed, and
  - (b) where any approval was given in accordance with paragraph 3(2), may specify a later date by which the event in question must occur.
- (3) If, after consulting such persons as may be prescribed, the Secretary of State is satisfied—
- (a) that implementation of the proposal would be unreasonably difficult, or
  - (b) that circumstances have so altered since approval was given under paragraph 3 that implementation of the proposal would be inappropriate,
- he may determine that sub-paragraph (1) shall cease to apply to the proposal.

#### *Proposal relating to community school*

- 6 A proposal to establish a community school which falls to be implemented under paragraph 5 must be implemented by the local education authority that made it.

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*Proposal relating to foundation or voluntary controlled schools*

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- (1) This paragraph applies to a proposal to establish a foundation or voluntary controlled school which falls to be implemented under paragraph 5.
  - (2) A proposal made by a local education authority must be implemented by the authority.
  - (3) In any other case, the proposal must be implemented by the local education authority which published it and the promoters, respectively, to such extent (if any) as the proposal provides for each of them to do so.
  - (4) Where a local education authority are required under sub-paragraph (2) or (3) to provide a site for a proposed foundation or voluntary controlled school, paragraph 16 of Schedule 6 to the School Standards and Framework Act 1998 (c. 31) (provision of site and buildings for foundation, voluntary controlled or foundation special school) applies as it applies in the circumstances mentioned in sub-paragraph (1) of that paragraph.

*Proposal relating to voluntary aided schools*

- 8
- (1) This paragraph applies to a proposal to establish a voluntary aided school which falls to be implemented under paragraph 5.
  - (2) It shall be implemented—
    - (a) so far as relating to the provision of any relevant premises for the school, by the local education authority which published the proposal, and
    - (b) otherwise by the promoters.
  - (3) In sub-paragraph (2) “relevant premises” means—
    - (a) in a case where it is proposed to establish the school at the site specified in the notice under section 70, that site or playing fields, and
    - (b) in any other case, playing fields.
  - (4) Sub-paragraphs (5) to (7) apply where a local education authority are required, by virtue of sub-paragraph (2)(a), to provide for a school the site specified in a notice under section 70.
  - (5) The authority shall transfer their interest in the site and in any buildings on it which are to form part of the school premises—
    - (a) to the trustees of the school, to be held by them on trust for the purposes of the school, or
    - (b) if the school has no trustees, to the school’s foundation body to be held by that body for the purposes of the schools comprising the group for which that body acts.
  - (6) If any doubt or dispute arises as to the persons to whom the authority are required to make a transfer under sub-paragraph (5), it shall be made to such persons as the Secretary of State thinks proper.
  - (7) The authority shall pay to the persons to whom the transfer is made their reasonable costs in connection with the transfer.
  - (8) Paragraph 17 of Schedule 6 to the School Standards and Framework Act 1998 (grants in respect of certain expenditure relating to voluntary aided schools) applies

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in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in sub-paragraph (1)(b) of that paragraph.

- (9) Paragraph 19 of that Schedule (assistance from LEA in respect of voluntary aided schools) applies in relation to the obligation under sub-paragraph (2)(b) of this paragraph as it applies in relation to the obligations referred to in that paragraph, and paragraph 20 of that Schedule (duty on LEA to transfer interest in premises provided under paragraph 19) applies accordingly.

*Proposal relating to Academies*

- 9 (1) Where a proposal to establish an Academy published under section 70 is implemented by the Secretary of State making an agreement under section 482 of the Education Act 1996 (c. 56), subsection (3) of that section (requirement to consult certain LEAs about the establishment of the school) does not apply.
- (2) In section 530 of the Education Act 1996 (compulsory purchase of land), after subsection (1)(b) there is inserted “, or
- (c) is required for the purposes of any Academy which has been or is to be established as a result of the implementation of proposals made pursuant to a notice published by the local education authority under section 70 of the Education Act 2002, and forms the whole or part of the site identified in that notice in accordance with subsection (3) (a) of that section.”