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STATUTORY INSTRUMENTS

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**1994 No. 1083**

**EDUCATION, ENGLAND AND WALES**

**The Education (Schools Conducted by Education Associations) (Amendment) Regulations 1994**

<i>Made</i>	- - - -	<i>13th April 1994</i>
<i>Laid before Parliament</i>		<i>18th April 1994</i>
<i>Coming into force</i>	- -	<i>9th May 1994</i>

In exercise of the powers conferred by sections 228(1)(a) and 301(6) of the Education Act 1993<sup>(1)</sup>, the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

**Citation, Commencement and Interpretation**

1.—(1) These Regulations may be cited as the Education (Schools Conducted by Education Associations) (Amendment) Regulations 1994 and shall come into force on 9th May 1994.

(2) In these Regulations “the principal Regulations” means the Education (Schools Conducted by Education Associations) Regulations 1993<sup>(2)</sup>.

**Amendment of Principal Regulations**

2. After regulation 4 of the principal Regulations, there is inserted the following regulation—

“**4A.** The Education (Acquisition of Grant-maintained Status) (Transitional Functions) Regulations 1993<sup>(3)</sup> shall have effect in relation to the exercise by an education association named in an order made under section 220 of the Act in respect of a school of the functions conferred on them under Schedule 4 to the Act during the period beginning when the order is made and ending immediately before the transfer date as those Regulations have effect in relation to the exercise by a new governing body incorporated under section 34(1) of the Act of their functions under that Schedule, with the following modifications

- (a) in regulation 3(1), for the reference to the implementation date there is substituted a reference to the transfer date;
- (b) regulations 3(2) and 4(4) are omitted;

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(1) 1993 c. 35. For the power to make regulations see section 305(1).  
(2) S.I.1993/3103.  
(3) S.I. 1993/3072.

- (c) for regulation 4(5) and (6) there is substituted the following—
  - “(5) The education association shall
    - (a) interview such applicants for the post as they think fit; and
    - (b) where they consider that it is appropriate to do so, appoint one of the applicants interviewed by them.
  - (6) If the education association do not appoint any of the applicants interviewed by them, they
    - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph (3) above; and
    - (b) whether or not they re-advertise the vacancy, may repeat the steps mentioned in paragraph (5) above.”;
- (d) in regulation 5(3), for the reference to the implementation date there is substituted a reference to the transfer date; and
- (e) in regulation 7(1)(d), for the reference to the school becoming grant-maintained there is substituted a reference to the school beginning to be conducted by the education association.”.

**3.** For Schedule 1 to the principal Regulations there is substituted the following

## SCHEDULE 1

Regulation 2

### MODIFICATIONS OF ENACTMENTS

#### PART I

##### PRIMARY LEGISLATION

###### **Local Government Act 1974 (c. 7)**

1. In section 25(5) of the Local Government Act 1974(4) (certain appeal committees to be subject to investigation by Local Commissioner) for the words “or for the purposes of paragraph 5 of Schedule 6 to the Education Act 1993” there are substituted the words “or articles of government having effect by virtue of section 223 of the Education Act 1993 for the purpose of determining appeals against decisions refusing persons admission as pupils to schools conducted by education associations or not to reinstate pupils following their permanent exclusion from such schools”.

###### **Education Reform Act 1988 (c. 40)**

2. In sections 106 and 110 of the Education Reform Act 1988(5) (charges in maintained schools) for the references to section 68(8) of the Education Act 1993, and in section 109(3) of the 1988 Act for the reference to section 57(5) of that Act, there are substituted references to section 222(4) of the Education Act 1993.

###### **Education (Schools) Act 1992 (c. 38)**

3. In paragraph 15(2) of Schedule 2 to the Education (Schools) Act 1992 (distribution of additional action plans following inspections of religious education) for the reference to the person who appoints the school’s foundation governors there is substituted a reference, in the case of a Church school, to the appropriate diocesan authority; and for the purposes of this paragraph a “Church school” means a Church in Wales school, a Church of England school or a Roman Catholic Church school (as defined in section 305(1) of the Education Act 1993) and “appropriate diocesan authority” shall be construed accordingly.

4. In paragraph 15(5)(b) of that Schedule (meaning of “governors report—”) for the reference to the report referred to in section 58(5)(j) of the 1988 Act there is substituted a reference to the report required by the school’s articles of government to be prepared once in every school year.

###### **Tribunals and Inquiries Act 1992 (c. 53)**

5. In paragraph 15 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals) for sub-paragraph (c)(6) there is substituted—

“(c) appeal committees constituted in accordance with articles of government having effect by virtue of section 223 of the Education Act 1993 for the purpose of determining appeals against decisions refusing persons admission as pupils to schools conducted by education associations or not to reinstate pupils following their permanent exclusion from such schools;”.

(4) Section 25(5) was added by section 7(7) of the Education Act 1980 (c. 20) and was amended by section 269 of the Education Act 1993.

(5) Sections 106 and 110 were amended by paragraphs 127 and 128 of Schedule 19 to the Education Act 1993.

(6) Paragraph 15(c) is amended by paragraph 174 of Schedule 19 to the Education Act 1993.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## **Education Act 1993 (c. 35)**

6. Section 8 of the Education Act 1993 (value-for-money studies of grant-maintained schools) is omitted.

7. In section 12 of the Act (responsibility for providing sufficient school places), after subsection (5), there is inserted the following subsection—

“(5A) For the purposes of subsection (4) above, section 221(4) of this Act shall not apply.”.

8. In section 161(5) of the Act (annual reports to contain information about implementation of governing body’s policy for pupils with special educational needs), for the reference to the report prepared under the articles of government for the school in accordance with section 30 of the Education (No.2) Act 1986(7) or paragraph 8 of Schedule 6 to the Act there is substituted a reference to the report required by the school’s articles of government to be prepared once in every school year.

9. In section 187 of the Act(8) (power to provide for grant-maintained special schools to form group conducted by single governing body), after subsection (3), there is added the following subsection—

“(4) For the purposes of this section, section 221(4) of this Act shall not apply.”.

10. In section 261(3)(b)(ii) of the Act(9) (restriction on power to exclude pupils from school) the words “a committee of—” are omitted.

11. In section 268(1)(b) of the Act (indemnity for legal costs and expenses of members of appeal committees) for the reference to an appeal committee constituted for the purposes of paragraph 5(1) of Schedule 6 to the Act there is substituted a reference to an appeal committee constituted in accordance with the school’s articles of government.

12. In section 273(2) of the Act (prohibition on proposals to alter or discontinue schools approved for grant-maintained status) for the reference to proposals for grant-maintained status which have been approved there is substituted a reference to an order under section 220 of the Act which has been made; and for the words “where the procedure for acquisition of grant-maintained status is pending (within the meaning of Chapter III of Part II of the Act)” there are substituted the words “during the period referred to in section 41(1) of this Act—”.

## **PART II**

### **SUBORDINATE LEGISLATION**

#### **The Education (School Hours and Policies) (Information) Regulations 1989(10)**

13. In regulation 2(1) of the Education (School Hours and Policies) (Information) Regulations 1989, in the definition of “governors— report”, for the words “section 58(5)(j) of the Act” there are substituted the words “required by the school’s articles of government to be prepared once in every school year”.

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(7) 1986 c. 61.

(8) Sections 187 and 261 of the Act are not in force at the date of these Regulations.

(9) Section 41(1) of the Act is modified by Schedule 3 to the principal Regulations.

(10) S.I. 1989/398.

### **The Education (School Curriculum and Related Information) Regulations 1989(11)**

14. In regulation 4(1) of the Education (School Curriculum and Related Information) Regulations 1989 for the words “section 58(5)(j) of the 1988 Act” there are substituted the words “required by the school’s articles of government to be prepared once in every school year”.

### **The Education (School Teacher Appraisal) Regulations 1991(12)**

15. In regulation 4(1) of the Education (School Teacher Appraisal) Regulations 1991 after “and” there are inserted words “he or the appraising body”, and after the words “existing appraiser” there are inserted the words “appointed by him, and the appraising body may appoint a new appraiser in place of an existing appraiser appointed by them,”.

16. In regulation 11(2) of those Regulations after th words “or where the appraiser is the head teacher” there are inserted the words “or the appraiser appointed by them,”.

### **The Education (School Curriculum and Related Information) (Wales) Regulations 1991(13)**

17. In regulation 8(1) of the Education (School Curriculum and Related Information)(Wales) Regulations 1991 for the words “section 58(5)(j) of the 1988 Act” there are substituted the words “required by the school’s articles of government to be prepared once in every school year”, and in regulation 9(1) for the words “made under section 58(2) of the Education Reform Act 1988” there are substituted the words “having effect by virtue of section 223 of the Education Act 1993”.

### **The Education (School Performance Information)(Wales) Regulations 1993(14)**

18. In regulation 10 of the Education (School Performance Information) (Wales) Regulations 1993 for the words “pursuant to section 58(5)(j) of the 1988 Act” there are substituted the words “in their annual report prepared pursuant to the school’s articles of government”.

4. In Schedule 3 to the principal Regulations, after the reference to section 102(2), there is inserted the following—

“Section 130(2) (transfer ofFor the reference to section 68(7)(b) of premises to trustees) the Act there is substituted a reference to paragraph 1(3)(b) of Schedule 12 to the Act.”.

Department for Education  
11th April 1994

*Eric Forth*  
Parliamentary Under Secretary of State

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(11) [S.I.1989/954](#), to which there are amendments not relevant to these Regulations.Regulation 4 was substituted by regulation 5 of the Education (Pupils' Attendance Records) Regulations 1991, S.I. [1991/1582](#).

(12) S.I. [1991/1511](#).

(13) S.I. [1991/1658](#), amended by S.I. [1991/1813](#) and [1993/998](#).

(14) S.I. [1993/2194](#).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

13th April 1994

*John Redwood*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations amend the Education (Schools Conducted by Education Associations) Regulations 1993.

They insert a regulation 4A, which provides for the Education (Acquisition of Grant-maintained Status) (Transitional Functions) Regulations 1993 to have effect in relation to the exercise by education associations of their powers under Schedule 4 to the Education Act 1993 with modifications (regulation 2).

Schedule 4 (as it applies to education associations) provides for the exercise of powers by such an association between the date on which an order under section 220 of the 1993 Act is made and the date on which responsibility for the conduct of the school transfers to them.

The Education (Acquisition of Grant-maintained Status) (Transitional Functions) Regulations regulate the exercise of the power in Schedule 4 to appoint members of staff and prescribe the information relating to the school which the education association may require from the existing governing body and the local education authority.

The Regulations also substitute a new Schedule 1 to the principal Regulations, which modifies a number of additional enactments in their application to schools conducted by education associations, and omits the modification to section 273(6) of the Education Act 1993, which was included in the principal Regulations in error, and the modifications to the Education (Grant-maintained Schools) (Finance) Regulations 1990 and the Education (Grant-maintained Schools) (Finance) Regulations 1993, which have been revoked (regulation 3).

The Regulations also insert in Schedule 3 to the principal Regulations provision modifying section 130(2) of the Education Act 1993 in its application to such schools (regulation 4).