
STATUTORY INSTRUMENTS

1994 No. 1084

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

Citation, commencement and interpretation

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

(2) In these Regulations—

“the Act” means the Education Act 1993; and

“the relevant provisions of Chapter III of Part II of the Act” means sections 38, 39, 41 (other than subsection (5)), 42, 43 (other than subsections (4), (7) and (9)), 44, 45 (other than subsection (3)), 46 (other than subsection (6)) and 47 of the Act.

Application of sections 220 to 227 of the Act to maintained special schools

2.—(1) Sections 220 to 227 of the Act shall have effect in relation to maintained special schools as they have effect in relation to county schools with the following modifications.

(2) In section 221—

(a) in subsection (2)(a) for the reference to a grant-maintained school there is substituted a reference to a grant-maintained special school;

(b) in subsection (4) for the reference to grant-maintained schools there is substituted a reference to grant-maintained special schools and for the reference to schools conducted by education associations there is substituted a reference to special schools so conducted; and

(c) subsections (5) and (6) are omitted.

(3) In section 222(3) for the words “in the character or premises of” there is substituted the word “to” and for the references to Chapter VII of Part II of the Act there are substituted references to sections 183 to 185 of the Act.

(4) In section 226(2)(a) for the reference to a grant-maintained school there is substituted a reference to a grant-maintained special school.

Transfer to education associations of responsibility for conduct of maintained special schools

3. Section 35 and the relevant provisions of Chapter III of Part II of the Act shall have effect in relation to the transfer to an education association under section 220 of the Act of responsibility for the conduct of a maintained special school as they have effect in relation to the transfer to a governing body incorporated under Chapter II of that Part of responsibility for the conduct of a county school with the modifications made by Schedule 1 to these Regulations, save that, in the case of a transfer to an education association of a maintained special school which is established in a hospital, section 38 of the Act shall have effect with the additional modification that the words “used or” in subsection (2)(a) are omitted.

4. The Education (Acquisition of Grant-maintained Status) (Transitional Functions) Regulations 1993(1) 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 maintained special 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 they 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;
- (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.

5. Where—

- (a) proposals for a prescribed alteration of a maintained special school have been approved under section 184 of the Act, and
- (b) the school begins to be conducted by an education association before the proposals are implemented,—

the proposals shall be treated for the purposes of Part III of the Act as if notice of them had been given by the education association under section 183(6) and they had been approved under section 184, and they shall be implemented in accordance with any particulars approved under section 185.

6. No proposals under section 183(2)(b) or (c) of the Act shall be made in respect of a school in relation to which an order under section 220 of the Act has been made.

Conduct of special schools by education associations

7. Notwithstanding regulation 2(2)(b) above, sections 183(3)(b) and (c), (4)(b) and (5)(c), 187 and 188(7) of, and Schedule 11 to, the Act and any regulations made under section 186 (other than under that section as it applies by virtue of section 228(4) of the Act in relation to a former maintained special school being conducted by an education association) of, or Schedule 11 to, the Act shall not apply in relation to the conduct of a special school by an education association.

8.—(1) The enactments mentioned in Schedule 2 to these Regulations shall have effect in relation to the conduct of a special school by an education association as they have effect in relation to the conduct of a grant-maintained school with the modifications made by that Schedule.

(2) For the purposes of the Education (School Premises) Regulations 1981(2) a special school conducted by an education association shall be regarded as a special school, save that regulation 3(3) of those Regulations shall apply in relation to a special school so conducted as it does in relation to a grant-maintained school.

(3) For the purposes of the School Teachers' Pay and Conditions Document 1993(3), given effect by the the Education (School Teachers' Pay and Conditions) (No. 2) Order 1993(4), references in that Document to a grant-maintained school shall include a special school conducted by an education association; and such a school shall be regarded as a special school for the purposes of that Document.

9. Chapter I of Part I of the Education Reform Act 1988(5) (other than sections 2(1)(a), 6, 9(3) to (10) and 10(1)), sections 241(5) and 245 of the Act and the instruments mentioned in Schedule 3 to these Regulations shall have effect in relation to the conduct of a special school which is not established in a hospital and which is conducted by an education association as they have effect in relation to the conduct of a grant-maintained school with, in the case of those instruments, the modifications made by that Schedule.

(2) [S.I. 1981/909](#), amended by [S.I. 1989/1277](#), [1990/2351](#) and [1993/559](#).

(3) ISBN 0 11 270843 9.

(4) [S.I. 1993/1755](#).

(5) [1988 c. 40](#). Chapter I of Part I has been amended in ways not relevant to these Regulations. Section 2(1) and (2)(c) is amended by sections 241(1) and 240(1) of the Education Act 1993 respectively (not yet in force), section 3(2) was amended by the Education (National Curriculum) (Foundation Subjects at Key Stage 4) Order 1992, [S.I. 1992/1548](#), section 3(3) is amended by paragraph 113 of Schedule 19 to the Education Act 1993 (paragraph 113(b) is not yet in force), section 3(5A) is inserted by section 240(2) of that Act (not yet in force), section 3(6) is amended by section 240(3) of that Act (not yet in force), section 9(1A) was inserted by section 12(4) of the Further and Higher Education Act 1992 ([c. 13](#)), section 16 was amended by paragraph 119 of Schedule 19 to the Education Act 1993, section 17A is inserted by section 241(3) of that Act (not yet in force), sections 18 and 19 are amended by paragraphs 120 and 121 of that Schedule respectively (not yet in force), section 22 was amended by paragraph 6 of Schedule 4 to the Education (Schools) Act 1992 ([c. 38](#)) and paragraph 123 of Schedule 19 to the Education Act 1993, and section 24 was amended by paragraph 28 of Schedule 8 to the Further and Higher Education Act 1992 and paragraph 124 of Schedule 19 to the Education Act 1993.