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STATUTORY INSTRUMENTS

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**1994 No. 2094**

**EDUCATION, ENGLAND AND WALES**

**The Education (Grant-maintained Schools) (Initial Governing Instruments) (Amendment) Regulations 1994**

<i>Made</i>	- - - -	<i>4th August 1994</i>
<i>Laid before Parliament</i>		<i>11th August 1994</i>
<i>Coming into force</i>	- -	<i>1st September 1994</i>

Whereas—

- (a) pursuant to section 301(5) of the Education Act 1993(1), the Secretary of State for Education has consulted bodies appearing to him to be representative of the Church of England and the Roman Catholic Church, and the Secretary of State for Wales has consulted a body appearing to him to be representative of the Church in Wales; and
- (b) pursuant to section 8(1) of, and paragraph 15(c) of Schedule 1 to, the Tribunal and Inquiries Act 1992(2), the Secretary of State has consulted the Council on Tribunals;

Now therefore, in exercise of the powers conferred on the Secretary of State by sections 56(1), 56(3) and 301(6) of the Education Act 1993(3), 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 (Grant-maintained Schools) (Initial Governing Instruments) (Amendment) Regulations 1994 and shall come into force on 1st September 1994.

(2) Any reference in these Regulations to the principal Regulations is a reference to the Education (Grant-maintained Schools) (Initial Governing Instruments) Regulations 1993(4)

**Amendments to Schedule 1 to the principal Regulations**

2.—(1) The instrument of government set out in Schedule 1 to the principal Regulations shall be amended in accordance with the following provisions of this regulation.

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(1) 1993 c. 35.  
(2) 1992 c. 53; paragraph 15(c) of Schedule 1 was amended by paragraph 174 of Schedule 19 to the Education Act 1993.  
(3) For the definitions of “prescribed” and “regulations” see section 305(1).  
(4) S.I.1993/3102.

(2) In paragraphs 3(2)(a) and 16(3)(a), for “school” in each place where it occurs there shall be substituted “School”.

(3) In paragraph 25(6), for “sub-paragraph (5)” there shall be substituted “sub-paragraphs (4) and (5)”.

(4) In paragraph 38(6), for “school” in each place where it occurs there shall be substituted “School”.

(5) In paragraph 40(1), for “37” there shall be substituted “39”.

(6) In Appendix 1, in paragraph 2(4), for “school” in each place where it occurs there shall be substituted “School”.

(7) In Appendix 2—

(a) in the modification to paragraph 23(2) to (12), for the sentence beginning “In sub-paragraph (2)” there shall be substituted—

“In sub-paragraph (2), for “meetings thereof” there is substituted “meetings of that committee”.

In sub-paragraphs (2) and (7), for “such a governor” (in each place where it occurs) there is substituted “a member of that committee”.

In sub-paragraphs (4) and (10), for “member of the Governing Body” (in each place where it occurs) there is substituted “member of any committee of the Governing Body affected by it”.

In sub-paragraph (8), for “meeting of the Governing Body” (in each place where it occurs) there is substituted “meeting of the committee of which he is a member.”;

(b) in the modification to paragraph 31—

(i) for “paragraph (1)” there shall be substituted “sub-paragraph (1)”;

(ii) for “second time” there shall be substituted “second and third times”; and

(iii) for the sentence beginning “For “the clerk to the Governing Body”” there shall be substituted—

“In sub-paragraph (3), for “the Governing Body”—

(a) where it appears for the first time, there is substituted “a committee of the Governing Body”; and

(b) where it appears for the second time, there is substituted “the committee”.”;

(c) in the modification to paragraph 32, for the sentence beginning “For “the Governing Body”” there shall be substituted—

“For “the Governing Body”—

(a) where it appears for the first time, there is substituted “a committee of the Governing Body”; and

(b) where it appears for the last time, there is substituted “the committee concerned”.”;

(d) in the modification to paragraph 33, after “first” there shall be inserted “time”;

(e) for the modification to paragraph 34(7) and (8) there shall be substituted—

“In sub-paragraph (7)—

(a) for “the Governing Body” there is substituted “a committee of the Governing Body”; and

(b) immediately before “members” there is inserted “eligible”.

In sub-paragraph (8), for the words from “the Chairman” to “above” there is substituted “the person who”.

After sub-paragraph (8), there is added—

“(9) For the purposes of sub-paragraph (7) above, an “eligible member” means any person entitled to vote in the proceedings of the committee in accordance with paragraph 36 of this Instrument.”; and

(f) in the modification to Appendix 1—

(i) for “paragraph 3(1)(b)” there shall be substituted “paragraphs 2(4)(b) and (c) and 3(1)(b), and where it appears for the second time in paragraph 1(1)(a)”;

(ii) after the first sentence there shall be inserted—

“In paragraph 1—

(a) in sub-paragraph (1)(a), for “a member of the Governing Body” there is substituted “an eligible member of the committee (within the meaning of paragraph 34(9) above)”;

(b) in sub-paragraph (2), the words “(other than paragraph 4 below)” are deleted.”.

### **Amendments to Schedule 2 to the principal Regulations**

**3.—**(1) The articles of government set out in Schedule 2 to the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In Article 1—

(a) in paragraph (1), the word “and” shall be omitted at the end of the definition of “the School”, and after that definition there shall be inserted—

“school day” has the meaning assigned to it by section 65(1) of the Education (No. 2) Act 1986<sup>(5)</sup>; and; and

(b) after paragraph (3) there shall be added—

“(4) For the purposes of these Articles, any question whether a pupil belongs to the area of a particular local education authority shall be determined, as it would for the purposes of the Education Act 1980<sup>(6)</sup>, in accordance with regulations made under section 38(5) of that Act<sup>(7)</sup>.”.

(3) Article 2 shall be omitted.

(4) In Article 7(4)—

(a) for “(2)(c)” there shall be substituted “(3)(c)”;

(b) “(as the case may be)” and “or (c)” shall be omitted.

(5) In Article 8—

(a) at the beginning of paragraphs (1) and (4) there shall be inserted in each case “Subject to Article 12A,”;

(b) in paragraph (1)—

(i) at the end of sub-paragraph (a) there shall be inserted “or”;

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<sup>(5)</sup> 1986 c. 61.

<sup>(6)</sup> 1980 c. 20.

<sup>(7)</sup> The current regulations are the Education (Areas to which Pupils and Students Belong) Regulations 1989 (S.I. 1989/2307, amended by 1990/361 and 1990/1653).

- (ii) the “or” at the end of sub-paragraph (b) shall be omitted; and
  - (iii) sub-paragraph (c) shall be omitted.
- (6) After Article 8 there shall be inserted—

**“Admissions: publication of particulars of arrangements for admission etc.**

**8A.**—(1) The Governing Body shall publish in accordance with Article 8B, for each school year, particulars of—

- (a) the arrangements for admission of pupils to the School; and
- (b) the procedures applicable under these Articles, and any further arrangements made by the Governing Body in respect of admission appeals, in relation to the admission of pupils to the School.

(2) The particulars to be published under paragraph (1)(a) above shall include particulars of the matters referred to in Article 7(3).

(3) In paragraph (1)(b) above, “admission appeals” means appeals against decisions of the Admissions Committee under Article 8 refusing admission to the School.

**Admissions: time and manner of publication of admissions information**

**8B.**—(1) The particulars required to be published under Article 8A shall be published in the manner and at the times specified in the following provisions of this Article.

(2) The particulars shall be published by—

- (a) supplying a copy on request and without charge to any parent who is considering applying for his child to be admitted to the School; and
- (b) making a copy available at the School without charge for reference by parents and other persons.

(3) The particulars shall be published in the school year immediately preceding the admissions school year and, except where the School is a primary school (other than a school deemed to be a primary school by virtue of regulations made under section 1(2) of the Education Act 1964<sup>(8)</sup>), they shall be published not later than six weeks before the date by which, in accordance with the arrangements for admission of pupils to the School, an application is required to be made for admission to the School at the beginning of the admissions school year.

(4) In this Article, references to the admissions school year are to the school year in respect of which the arrangements for admission, the particulars of which are required to be published under Article 8A above, have effect.”.

(7) In Article 10, after paragraph (3) there shall be added—

“(4) Where the Head Teacher permanently excludes a pupil from the School, he shall inform (without delay) the local education authority to whose area the pupil belongs.

(5) For the purposes of this Article and Article 11, the Head Teacher shall be taken to have informed the Discipline Committee of a pupil’s exclusion from the School when he has informed the chairman of, or the clerk to, the Discipline Committee of that exclusion.”.

(8) In Article 11—

- (a) in paragraph (2)(c)—

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<sup>(8)</sup> 1964 c. 82; section 1(2) was amended by paragraph 12 of Schedule 3 to the Education Act 1980 (c. 20). The current regulations are the Education (Middle Schools) Regulations 1980 (S.I. 1980/918).

- (i) the word “and” at the end of paragraph (i) shall be omitted;
- (ii) at the end of paragraph (ii) the word “and” shall be inserted; and
- (iii) after paragraph (ii) there shall be inserted—
  - “(iii) the local education authority to whose area the pupil belongs”;
- (b) for paragraph (3) there shall be substituted—
  - “(3) In any case to which paragraph (2)(c) above applies, the Discipline Committee shall give the pupil or (as the case may be) his parent notice in writing of—
    - (a) his right to appeal against their decision not to reinstate him;
    - (b) the arrangements made by the Governing Body in accordance with Article 12 for enabling an appeal to be made against any decision not to reinstate a pupil following his permanent exclusion from the School;
    - (c) the last date by which an appeal may be made calculated in accordance with Article 12(3A); and
    - (d) the fact that, where he gives notice in writing to the Discipline Committee or the Governing Body that he does not intend to appeal, no appeal may be made after that notice has been given.”;
- (c) after paragraph (3) there shall be inserted—
  - “(3A) Subject to paragraph (3C) below, the Discipline Committee shall complete any steps required to be taken under paragraphs (2) and (3) above within the period ending on the fifteenth school day following the date on which they were informed by the Head Teacher of the pupil’s permanent exclusion from the School.
  - (3B) Subject to paragraph (3C) below, where in accordance with paragraph (2)(b) above the Discipline Committee give a direction to the Head Teacher to reinstate a pupil, they shall inform—
    - (a) the pupil, if he is aged eighteen years or over, or, if he is not, a parent of his, and
    - (b) the local education authority to whose area the pupil belongs,of that fact on or before the first school day following the date on which the direction was given.
  - (3C) Paragraph (3A) above shall not apply where the Discipline Committee were informed of the pupil’s permanent exclusion before 1st September 1994; and paragraph (3B) above shall not apply where the direction for reinstatement was given by the Discipline Committee before that date.”; and
- (d) for paragraphs (6) and (7) there shall be substituted—
  - “(6) Where in accordance with paragraph (3) above notice in writing is required to be given to a person, that notice may be given either—
    - (a) by delivering the notice by hand to the person’s last known address; or
    - (b) by properly addressing, pre-paying and sending by first class post a letter containing the notice to the person at his last known address.
  - (7) For the purposes of calculating the periods referred to in paragraphs (3A) and (3B) above, where notice of any matter is sent by the Discipline Committee to a person at his last known address—
    - (a) by first class post;
    - (b) by facsimile transmission (or other similar means which produce a document containing a text of the communication); or

(c) by delivery by hand,

the Discipline Committee shall be taken to have informed that person of that matter on the date on which (as the case may be) the notice was posted, transmitted or delivered.”.

(9) In Article 12—

(a) at the beginning of paragraph (1) there shall be inserted “Subject to Article 12A,”;

(b) after paragraph (3) there shall be inserted—

“(3A) No appeal against a decision of the Discipline Committee not to reinstate a pupil following his permanent exclusion from the School may be made after the fifteenth school day after the day on which the pupil or, as the case may be, a parent of his received the notice given in accordance with Article 11(3).

(3B) Any notice in writing given to the Discipline Committee or the Governing Body by a pupil (if he is aged eighteen years or over) or a parent of his (if he is not), stating that he does not intend to appeal against a decision not to reinstate the pupil, shall be final; and, where any such notice is received before the expiry of the period referred to in paragraph (3A) above, the period for appealing shall expire on the date on which the notice is received.

(3C) Paragraphs (3A) and (3B) above shall not apply where the pupil or, as the case may be, his parent was informed before 1st September 1994 of the decision not to reinstate the pupil.”; and

(c) after paragraph (5) there shall be added—

“(6) For the purposes of calculating the period referred to in paragraph (3A) above, the pupil or (as the case may be) his parent shall, unless the contrary is shown, be taken to have received the notice given in accordance with Article 11(3)—

(a) where first class post is used, on the second school day after posting; or

(b) where the notice is delivered by hand, on the date on which it is so delivered.”.

(10) After Article 12 there shall be inserted—

**“Admission of children who are under the age of five or who have statements of special educational needs**

**12A.—**(1) Subject to paragraph (2) below, Articles 8(1) and (4) and 12(1)(a) shall not have effect in relation to the admission of children to the School who will not have attained the age of five years at the time of their proposed admission.

(2) Where the arrangements for the admission of pupils to the School provide for the admission of children who will not have attained the age of five years at the time of their proposed admission—

(a) Articles 8(1) and (4) and 12(1)(a) shall have effect in relation to the admission of such pupils to the School otherwise than for nursery education; and

(b) the transfer to a reception class at the School of children previously admitted to the School for nursery education shall be treated for the purposes of those provisions as the admission of pupils to the School.

(3) Articles 8(1) and (4) and 12(1)(a) shall not have effect in relation to the admission of children in respect of whom statements are maintained under section 168 of the 1993 Act.”.

(11) In Article 16(7), for “(5)(b)” there shall be substituted “(6)(b)”.

(12) In Article 17—

(a) in paragraph (6)—

- (i) there shall be omitted the words “or, as the case may be, deputy head teacher” and “or, as the case may be, acting deputy head teacher”; and
  - (ii) for “may” there shall be substituted “shall”; and
- (b) after paragraph (6) there shall be inserted—
- “(6A) Where the post of deputy head teacher has not been filled, or it appears to the Governing Body that the post will not be filled, by an appointment made in accordance with the preceding provisions of this Article before the date on which the post falls vacant, the Governing Body may, pending the making of such an appointment, appoint a person as acting deputy head teacher.”.
- (13) In Article 21, paragraph (2) shall be omitted.
- (14) Appendix 1 shall be omitted.
- (15) In Appendix 2—
- (a) after paragraph 2 there shall be inserted—
    - “**2A.**—(1) Subject to sub-paragraphs (2) and (3) below, an appeal committee shall meet to consider an exclusion appeal—
      - (a) within the period ending with the fifteenth school day after the day on which the appeal is lodged; or
      - (b) if the Governing Body has determined a shorter period, within that period.
    - (2) The Governing Body may extend the period within which an appeal committee are to consider an exclusion appeal where—
      - (a) the pupil who is the subject of the appeal (if he is aged eighteen years or over) or his parent (if he is not) requests them to do so; and
      - (b) they are satisfied that the circumstances are exceptional and justify the period under sub-paragraph (1) being extended.
    - (3) Sub-paragraph (1) above does not apply where the notice of appeal was lodged before 1st September 1994.
    - (4) In this Appendix, “exclusion appeal” means an appeal against a decision of the Discipline Committee under Article 11(2) not to reinstate a pupil following his permanent exclusion from the School.”;
  - (b) in paragraph 5, for “and the Head Teacher” there shall be substituted “the Head Teacher and, in the case of an exclusion appeal, the local education authority to whose area the pupil belongs”; and
  - (c) after paragraph 5 there shall be inserted—
    - “**5A.**—(1) Subject to sub-paragraphs (2) and (3) below, in the case of an exclusion appeal the decision of an appeal committee and the grounds on which it is made shall be communicated by the committee to the persons referred to in paragraph 5 above within—
      - (a) the period ending with the seventeenth school day after the day on which the appeal is lodged; or
      - (b) if the Governing body has determined a shorter period, that period.
    - (2) Where the Governing Body extend the period for the consideration of an appeal in accordance with paragraph 2A(2) above, they shall (to the extent it appears to them to be necessary as a result of the extension of that period) extend the period within which the appeal committee are to communicate their decision.

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(3) This paragraph shall not apply where the notice of appeal to which the decision relates was lodged before 1st September 1994.”

2nd August 1994

*Eric Forth*  
Minister of State,  
Department for Education

4th August 1994

*John Redwood*  
Secretary of State for Wales



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## EXPLANATORY NOTE

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

These Regulations amend the Education (Grant-maintained Schools) (Initial Governing Instruments) Regulations 1994 (“the principal Regulations”).

The Regulations amend the initial instrument of government for grant-maintained schools set out in Schedule 1 to the principal Regulations (regulation 2). These include amendments to correct references in the initial instrument of government. The Regulations also amend Appendix 2 to the initial instrument of government (which makes provision as to the proceedings and meetings of committees of governing bodies of grant-maintained schools).

The Regulations amend the initial articles of government set out in Schedule 2 to the principal Regulations (regulation 3). The Regulations insert new Articles 8A and 8B in the initial articles of government. Article 8A requires the governing body to publish for each school year particulars of the arrangements for admission of pupils to the school, and particulars with respect to appeals against decisions refusing admission to the school. Article 8B makes provision as to the manner and timing of the publication of such particulars.

The Regulations amend the provisions of the initial articles of government relating to the exclusion of pupils. The Regulations insert a new paragraph (4) in Article 10 so as to require the head teacher, where he permanently excludes a pupil, to inform the local education authority to whose area the pupil belongs of that fact. Article 11(2) is amended so that the Discipline Committee of the governing body are required to inform the local education authority to whose area the pupil belongs when they decide not to reinstate the pupil following his permanent exclusion. Article 11(3) is amended so as to require the Discipline Committee to give a pupil or his parent additional information in relation to the making of appeals following the pupil’s permanent exclusion from the school. Article 11 is also amended so as to impose time-limits on the actions required to be carried out by the Discipline Committee under that Article.

The Regulations also amend the provisions of the initial articles of government relating to appeals against decisions not to reinstate permanently excluded pupils. Article 12 is amended so as to prevent an appeal against a decision of the Discipline Committee not to reinstate a permanently excluded pupil to be made after the fifteenth school day after the date on which the pupil or his parent was informed of the Discipline Committee’s decision. Appendix 2 to the initial articles of government (which also relates to appeals) is amended so as to insert a new paragraph 2A in that Appendix. Paragraph 2A requires an appeal committee, hearing an appeal against a decision of the Discipline Committee, to meet to consider the appeal within the period ending with the fifteenth school day after the day on which the appeal is lodged, or such shorter period as may be determined by the governing body. Under new paragraph 2A(2), the governing body may extend the period for appealing if the pupil or (if he is under the age of 18) his parent so requests. The Regulations also insert a new paragraph 5A in Appendix 2 to the initial articles of government to require an appeal committee to communicate its decision on an exclusion appeal within the period ending with the seventeenth school day after the day on which the appeal is lodged, or such shorter period as the governing body may determine. That period may be extended where the period under paragraph 2A is extended at the request of the pupil or his parent.

The Regulations also insert a new Article 12A in the initial articles of government. That Article provides for certain provisions relating to admissions, and appeals against admissions decisions, (Articles 8(1) and (4) and 12(1)(a)) not to apply in relation to the admission for nursery education

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of children under the age of five years, and in relation to the admission of children with statements of special educational needs.