

SCHEDULE 0

Regulation 21

MODIFICATIONS TO PROVISIONS OF CHAPTER II OF PART II OF THE 1998 ACT

1. In section 28(6) for “to the school organisation committee for the area of the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school” there shall be substituted “to the Secretary of State”.

2. In section 29(5) for “to the school organisation committee for the area of the local education authority who maintain the school” there shall be substituted “to the Secretary of State”.

3. In section 31(5) for “to the school organisation committee for the area of the local education authority who maintain the school or (in the case of a new school) who it is proposed should maintain the school” there shall be substituted “to the Secretary of State”.

4. In Schedule 6—

- (a) paragraph 1(2) shall be omitted;
- (b) in paragraph 2(2)(b) and (3) for “the relevant committee” there shall be substituted “the Secretary of State”;
- (c) for paragraph 3(1) there shall be substituted the following sub-paragraph—

“(1) Proposals published under section 28, 29 or 31 require approval under this paragraph if—

(a) the proposals were published by a local education authority and either—

(i) the Secretary of State, within two months after a copy of the published proposals is sent to him under that section, gives notice to the local education authority that the proposals require such approval; or

(ii) objections to the proposals have been made in accordance with paragraph 2 and any of them have not been withdrawn in writing within the objection period; or

(b) the proposals were published by a governing body or promoters”;

- (d) in paragraph 3(2) for “Where any proposals require approval under this paragraph they shall be considered in the first instance by the relevant committee who may —” there shall be substituted “Where any proposals require approval under this paragraph the Secretary of State may —”;
- (e) paragraph 3(4) to (7) shall be omitted;
- (f) for paragraph 4 there shall be substituted the following paragraph—

“4.—(1) Where any proposals published by a local education authority under section 28, 29 or 31 do not require approval under paragraph 3 the local education authority shall determine whether the proposals should be implemented.

(2) Any determination under sub-paragraph (1) must be made within four months after a copy of the published proposals was sent to the Secretary of State under section 28, 29 or 31.

(3) The local education authority shall notify the Secretary of State of any determination made by them under sub-paragraph (1)”;

- (g) in paragraph 5(2) for “the relevant committee” there shall be substituted “the Secretary of State”;
- (h) paragraph 5(3) to (7) and “(3) or” in paragraph 5(9) shall be omitted;

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- (i) in paragraph 21(2)(a) and (b) for “the school organisation committee” there shall be substituted “the Secretary of State”;
- (j) for paragraph 21(3) there shall be substituted the following sub-paragraph—

“(3) The sending of the published proposals to the Secretary of State shall be treated as an application by the responsible body for the making by the Secretary of State of a transitional exemption order, and he may make such an order accordingly.”.

5. In Schedule 7—

- (a) paragraphs 2(5) and 3(5) shall be omitted;
- (b) in paragraph 7(2)(a) for “the school organisation committee for the area to which those proposals relate” there shall be substituted “the Secretary of State”;
- (c) for paragraphs 8 and 9 there shall be substituted—

“Local inquiry into proposals

8.—(1) This paragraph applies where in relation to the area of any local education authority the Secretary of State has made proposals under paragraph 5 (otherwise than in pursuance of paragraph 9(1)) which he has not withdrawn.

(2) If objections have been made under paragraph 7(1) within the period prescribed in accordance with paragraph 7(2)(b), then, unless all objections so made have been withdrawn in writing within that period, the Secretary of State shall cause a local inquiry to be held to consider his proposals, any proposals he refers to the inquiry and any such objections.

(3) Any proposals referred to a local inquiry under this paragraph require the approval of the Secretary of State (if they would not require such approval apart from this sub-paragraph).

(4) Where the Secretary of State has a duty to cause a local inquiry to be held under this paragraph, he shall refer to the inquiry—

- (a) any other proposals published under paragraph 5 in relation to the area of the local education authority (and not withdrawn),
- (b) any proposals made by that authority in the exercise of their powers to make proposals for the establishment, alteration or discontinuance of schools (and not withdrawn), and
- (c) any proposals made by the governing body of any foundation, voluntary or foundation special school in the area in the exercise of their powers to make proposals for the alteration of their school (and not withdrawn),

where those proposals are not determined before he causes the inquiry to be held and appear to him to be related to the proposals made under paragraph 5 in respect of which he is required under this paragraph to cause the inquiry to be held.

(5) If, before the Secretary of State causes the inquiry to be held, he forms the opinion that any proposals ought to be implemented, sub-paragraph (4) does not require him to refer those proposals to the inquiry unless—

- (a) before the proceedings on the inquiry are concluded, or
- (b) (if earlier) the proposals are determined,

he subsequently forms a different opinion.

(6) It shall not be open to the inquiry to question the principles specified in the order under paragraph 2(2) or 3(2).

- (7) References in this paragraph to the determination of any proposals are to—
- (a) any determination whether or not to approve or adopt the proposals under paragraph 3 of Schedule 6 or paragraph 9 below, or
 - (b) any determination whether or not to implement the proposals under paragraph 4 of Schedule 6.

Adoption of proposals

9.—(1) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is required to cause a local inquiry to be held, he may when he has considered the report of the person appointed to hold the inquiry do one or more of the following—

- (a) adopt, with or without modifications, or determine not to adopt the proposals or any other proposals made by him under that paragraph which he referred to the inquiry;
- (b) approve, with or without modifications, or reject any other proposals which he referred to the inquiry; and
- (c) make any such further proposals under paragraph 5 as might have been made in accordance with the order or orders relating to the area of the local education authority concerned by the body to whom the directions were given.

(2) Where the Secretary of State has published proposals under paragraph 5 in respect of which he is not required to cause a local inquiry to be held and which he is not required to refer to such an inquiry, he may, after considering any objections made under paragraph 7(1) (and not withdrawn) within the period prescribed in accordance with paragraph 7(2) (b)—

- (a) adopt the proposals with or without modifications; or
- (b) determine not to adopt the proposals.

(3) Any adoption of proposals under this paragraph may be expressed to take effect only if any event specified in the adoption occurs by a date so specified.”

(d) in paragraph 10—

- (i) for “Proposals approved by the school organisation committee under paragraph 8 or by the adjudicator under paragraph 9” there shall be substituted “Proposals adopted by the Secretary of State under paragraph 9”; and
- (ii) for “and had been approved by the school organisation committee or the adjudicator, as the case may be, under paragraph 3 of Schedule 6” there shall be substituted “and had been approved by the Secretary of State under paragraph 3 of Schedule 6”;

(e) in paragraph 16 for sub-paragraphs (2) to (5) there shall be substituted—

“(2) Where such proposals are made under paragraph 5 of this Schedule, the responsible body shall be treated as having made an application to the Secretary of State for the making of a transitional exemption order, and the Secretary of State may make such an order accordingly.”;