

SCHEDULE 1

Regulation 4

PROVISIONS OF SECTION 28 OF, AND SCHEDULE 6 TO THE ACT HAVING EFFECT IN RELATION TO PROPOSALS MENTIONED IN REGULATION 4

The subsections of section 28 of, and the paragraphs in Part I of Schedule 6 to, the Act specified in the left hand column of the table below shall have effect in relation to proposals mentioned in regulation 4 with the modifications specified in the right hand column of the table.

TABLE

Provision	Modification
Section 28(3)	<p>That subsection shall have the effect as if—</p> <ul style="list-style-type: none">(a) for “under this section” there were substituted “under paragraph 2 or paragraph 3 of Schedule 8”; and(b) for paragraphs (a) and (b) and the words “as may be prescribed.” there were substituted—<ul style="list-style-type: none">“(a) contain the following information—(i) the name of the relevant body publishing the proposal;(ii) the date on which it is proposed that the change of category should take place;(iii) a statement explaining the effect of paragraph 2 of Schedule 6 including the date by which objections should be sent to the local education authority and the address of that authority or to the relevant school organisation committee and the address of that committee;(iv) a statement that it is proposed to change the category of the school stating the current category of school and the proposed new category of school;(v) the rationale of the proposal;

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	<p>(vi) a statement identifying the admission authority for the school after the change of category has taken place and stating the proposed change (if any) in admission authority;</p> <p><i>(if the new category of school is a voluntary school)</i></p> <p>(vii) a statement that it is proposed that the school will—</p> <ul style="list-style-type: none">(a) have or continue to have a foundation established otherwise than under this Act; or(b) belong or continue to belong to a group of schools for which a foundation body acts; <p><i>(if the new category of school is a foundation school)</i></p> <p>(viii) a statement that the school will—</p> <ul style="list-style-type: none">(a) have or continue to have a foundation established otherwise than under this Act; or(b) belong or continue to belong to a group of schools for which a foundation body acts; or

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	<p>(c) be a foundation school not falling within either of subparagraphs (viii) (a) or (b) above; <i>(if the new category of school is a foundation special school)</i></p> <p>(ix) a statement that it is proposed the school will have a foundation established otherwise than under this Act; <i>(if it is proposed that the school will have or continue to have a foundation other than by belonging to a group of schools for which a foundation body acts)</i></p> <p>(x) the identity of that foundation; <i>(if it is proposed that the school will belong or continue to belong to a group of schools for which a foundation body acts)</i></p> <p>(xi) the identity of that body and the identity of the other schools in the group for which the foundation body performs or will perform the functions set out in section 21(4); <i>(if at the time the proposal is published section 15 applies to the school)</i></p> <p>(xii) a statement that section 15 applies to the school by virtue of section 15(1), 15(4) or 15(6) as the case may be, and <i>(if at the time the proposal is published Schedule 15 applies to the governing body)</i></p> <p>(xiii) a statement that the local education authority have given notice of their</p>

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	<p>intention to suspend, or have suspended, the governing body’s right to a delegated budget, by virtue of Schedule 15; and</p> <p>(b) shall be published—</p> <p>(i) by being posted in a conspicuous place in the area served by the school;</p> <p>(ii) in at least one newspaper circulating in the area served by the school, and</p> <p>(iii) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them .”</p>
<p>Section 28(5)</p>	<p>That subsection shall have effect as if for “under this section” there were substituted “under paragraph 2 or paragraph 3 of Schedule 8”, and the words “or promoters” were deleted on both occasions on which they occur.</p>
<p>Section 28(6)</p>	<p>That subsection shall have effect as if—</p> <p>(a) for “under this section” there were substituted “under paragraph 2 or paragraph 3 of Schedule 8”;</p> <p>(b) the words “or proposed school” were omitted;</p> <p>(c) the words “or promoters” were omitted, and</p> <p>(d) for paragraph (b) and the words following that paragraph there were substituted—</p> <p style="padding-left: 40px;">“(b) the information specified in subsection (6A),</p> <p style="padding-left: 40px;">to the school organisation committee for the area of the local education authority who maintain the school.</p> <p>(6A) The information referred to in subsection (6)(b) is—</p> <p>(a) evidence of consultation before the proposals were published including—</p>

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	<ul style="list-style-type: none"><li data-bbox="1011 383 1340 443">(i) copies of the consultation documents, and<li data-bbox="1011 456 1340 551">(ii) the views and responses from the persons consulted; <p data-bbox="935 564 1340 815">(b) a map showing the location of the school and all other maintained schools within a radius of 3.218688 kilometres (2 miles), where the school is a primary school and 4.828032 kilometres (3 miles) where the school is a secondary school;</p> <p data-bbox="935 828 1340 1048">(c) the following information relating to the school for the school year in which the proposals were published and (except for the information specified in sub-paragraph (i)), the previous school year—</p> <ul style="list-style-type: none"><li data-bbox="1011 1061 1340 1155">(i) the lower and upper age limits of the pupils attending the school;<li data-bbox="1011 1169 1340 1357">(ii) the capacity of the school or, in the case of a special school the number of pupils for whom the school is organised to make provision;<li data-bbox="1011 1370 1340 1559">(iii) the number of pupils at the school, and a forecast of the matters specified in sub-paragraphs (ii) and (iii) for each of the subsequent five years; <p data-bbox="935 1572 1340 1886">(d) a list of all the maintained schools within the radius of the school mentioned in paragraph (b) above stating which schools are maintained by different local education authorities together with the information referred to in paragraph (c) in respect of each such school;</p> <p data-bbox="1043 1899 1340 2013"><i>(where the school is a community special school or a foundation special school)</i></p>

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	<p>(e) (i) details of the special educational needs of pupils for whom the school is organised to make provision;</p> <p>(ii) details of the information referred to in subparagraph (i) in respect of each community special or foundation special school within the radius of the school mentioned in paragraph (b), and</p> <p>(iii) details of all local education authorities which maintain statements of special educational need for pupils at the school;</p> <p>(f) a breakdown of any costs involved in the change of category;</p> <p>(g) whether the school is a day or boarding school or a school taking both day and boarding pupils;</p> <p>(h) a statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996⁽¹⁾ during the period starting three years before the date of the publication of the proposals and, where the school has been inspected during that period, the date of the inspection and details of the outcome of the inspection;</p> <p style="padding-left: 40px;"><i>(if the school is a voluntary or foundation school with a religious character)</i></p> <p>(i) a statement as to whether the school has been inspected under section 23 of the Schools Inspection Act 1996 during</p>

(1) 1996 c. 57. Section 10 was amended by paragraph 6 of Schedule 6 to the Education Act 1997 (c. 44) and paragraph 191 of Schedule 30 to the Act.

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	<p>the period starting three years before the date of the publication of the proposals and, where the school has been so inspected during that period, the date of the inspection and details of the outcome of the inspection;</p> <p><i>(if the proposal is that a school should become a voluntary aided school)</i></p> <p>(j) (i) an estimate of the probable expenses of the school for the five years commencing on the implementation date for which the governing body will be liable under Schedule 3; and</p> <p>(ii) a statement that the governing body for a period of at least five years commencing on the implementation date will be willing and able to carry out their obligations under Schedule 3;</p> <p>(iii) for the purposes of the statement in subparagraph (ii) the governing body shall assume a grant will be made to them under paragraph 5 of Schedule 3 of 85 per cent of qualifying expenditure;</p> <p>(k) details of the exercise in relation to the school of any power granted to the local education authority or to the Secretary of State under Part 1 Chapter IV, during the period starting three years before the date of the publication of the proposal;</p> <p>(l) details of the exercise in relation to the governing body of any power granted to the local education authority or to the Secretary of State under</p>

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	<p>Schedule 15, during the period starting three years before the date of the publication of the proposal;</p> <ul style="list-style-type: none"> <li data-bbox="927 521 1331 678">(m) details of the tenure (freehold or leasehold) on which the site of the school is held and, if the premises are held on a lease, details of the lease; <li data-bbox="927 696 1331 880">(n) details of any trusts on which the school premises are held or it is proposed will be held or any proposed trusts on which it is proposed the school premises will be held; <li data-bbox="927 898 1331 1115">(o) details of the body or authority to whom, on the date on which it is proposed that the school change category, it is proposed that land should be transferred in accordance with regulations.”
Section 28(8)	<p>That subsection shall have effect as if it were omitted and the following substituted “Schedule 6 shall have effect in relation to the procedure for dealing with proposals under paragraph 2 or paragraph 3 of Schedule 8.”</p>
Section 28(10)	<p>That subsection shall have effect as if the words from “or promoters ” in the first place where they occur to the end of the subsection were omitted and the following were substituted “means, in the case of proposals published by a local education authority, the authority and, in the case of proposals published by a governing body, the governing body.”</p>
Section 28(11)	<p>That subsection shall have effect as if paragraph (a) were omitted.</p>
Schedule 6	
Paragraph 1	<p>That paragraph shall have effect as if—</p> <ul style="list-style-type: none"> <li data-bbox="810 1742 1331 1899">(a) in sub-paragraph (1) for “section 28, 29 or 31” there were substituted “ paragraph 2 or paragraph 3 of Schedule 8” and the words “or proposed school” were omitted; <li data-bbox="810 1906 1331 2018">(b) in sub-paragraph (2) the words “or (in the case of a new school) who it is proposed should maintain the school” were omitted.

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Paragraph 2	<p>That paragraph shall have effect as if—</p> <ul style="list-style-type: none"><li data-bbox="810 421 1342 510">(a) in sub-paragraph (1) for “section 28, 29 or 31” there were substituted “ paragraph 2 or paragraph 3 of Schedule 8”;<li data-bbox="810 517 1342 584">(b) for sub-paragraph (2) there were substituted—<ul style="list-style-type: none"><li data-bbox="868 591 1342 741">“(2) Where the proposals were published by the local education authority any objections under this paragraph shall be sent to the local education authority within—<ul style="list-style-type: none"><li data-bbox="932 763 1342 887">(a) two months after the date of the publication of the proposals except where sub-paragraph (b) applies; and<li data-bbox="932 898 1342 1055">(b) one month after the date of publication of the proposals where the proposals are in respect of a school to which section 15 applies. <p>(2A) The local education authority shall send to the relevant committee copies of all objections made (and not withdrawn in writing) together with the authority’s observations on them within—</p> <ul style="list-style-type: none"><li data-bbox="932 1240 1342 1364">(a) one month after the end of the objection period except where the proposals fall within subparagraph (2)(b), and<li data-bbox="932 1375 1342 1503">(b) two weeks after the end of the objection period where the proposals fall within subparagraph (2)(b). <p>(2B) Where the proposals were published by the governing body any objections under this paragraph shall be sent to the relevant committee within—</p> <ul style="list-style-type: none"><li data-bbox="932 1659 1342 1783">(a) two months after the date of the publication of the proposals except where subparagraph (b) applies, and<li data-bbox="932 1794 1342 1951">(b) one month after the date of the publication of the proposals where the proposal is in respect of a school to which section 15 applies.”, and <ul style="list-style-type: none"><li data-bbox="810 1957 1342 1989">(c) sub-paragraph (3) were omitted.
Paragraph 3	That paragraph shall have effect as if—

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	<p>(a) In sub-paragraph (1) for “section 28, 29 or 31” there were substituted “ paragraph 2 or paragraph 3 of Schedule 8”;</p> <p>(b) in sub-paragraph (1)(b) the words “or promoters” were omitted;</p> <p>(c) in sub-paragraph (2)(c) for “such persons or bodies as may be prescribed ” there were substituted “the local education authority and the governing body”;</p> <p>(d) for sub-paragraph (3) there were substituted</p> <p style="padding-left: 40px;">“(3) Any approval given under this paragraph may be expressed to take effect only if—</p> <p style="padding-left: 80px;">(a) a scheme relating to any charity connected with the school is made by a date specified in the approval,</p> <p style="padding-left: 80px;">(b) the Secretary of State gives notice under regulation 5(1) of the Foundation Body Regulations 1999(2) (that a foundation body shall become operative and that the school shall form part of a group for which the foundation shall act) by a date specified in the approval, or</p> <p style="padding-left: 80px;">(c) the Secretary of State makes a declaration (that the school shall form part of a group for which a foundation body acts) under regulation 21(2) of the Foundation Body Regulations 1999 by a date specified in the approval.”;</p> <p>(e) for sub-paragraph (5) there were substituted—</p> <p style="padding-left: 40px;">“(5) If—</p> <p style="padding-left: 80px;">(a) after two months from—</p> <p style="padding-left: 120px;">(i) the end of the period within which objections must be sent to the relevant committee in accordance with paragraph 2(2A) or (2B), or</p>

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	<ul style="list-style-type: none"> (ii) if later, the date on which the committee receive the information specified in section 28(6A), the committee have not voted on the question whether to give any approval under this paragraph; and either (b) the local education authority have published the proposals and request the committee to refer the proposals to the adjudicator, or (c) the governing body have published the proposals and request the committee to refer the proposals to the adjudicator, they shall refer the proposals to the adjudicator”; (f) in sub-paragraph (6) the words “(in accordance with regulations under paragraph 5 of Schedule 4)” were omitted; (g) for sub-paragraph (8) there were substituted— <ul style="list-style-type: none"> “(8) Sub-paragraph (1) does not prevent the governing body or local education authority by whom any proposals have been published under paragraph 2 of Schedule 8 from withdrawing such proposals by notice in writing given to the relevant committee at any time before the proposals are determined under this paragraph.”; and (h) after sub-paragraph (8) there were added the following sub-paragraph— <ul style="list-style-type: none"> “(9) Sub-paragraph (1) does not prevent the governing body by whom proposals have been published under paragraph 3 of Schedule 8 from withdrawing such proposals with the consent in writing of the relevant committee at any time before the proposals are determined under this paragraph.”
<p>Paragraph 4</p>	<p>That paragraph shall have effect as if—</p> <ul style="list-style-type: none"> (a) in sub-paragraph (1) for “section 28, 29 or 31” there were substituted “ paragraph 2 of Schedule 8”; (b) in sub-paragraph (2) the words “(as determined in accordance with

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Paragraph 5	<p>regulations) ” were omitted and after the words “relevant committee” the words “ , the governing body of the school which is the subject of the proposal and the Secretary of State” were added, and</p> <p>(c) at the end of sub-paragraph (3)(d) there were added the following sub-paragraphs—</p> <p> “(e) any undetermined proposals published under paragraph 2 or paragraph 3 of Schedule 8 to change the category of schools in the area of the local education authority, or</p> <p> (f) the establishment of a foundation body or the joining of a group of schools for which a foundation body performs the functions set out in section 21(4).”.</p> <p>That paragraph shall have effect as if—</p> <p>(a) in sub-paragraph (1) for “Section 28, 29 or 31” there were substituted “ paragraph 2 or paragraph 3 of Schedule 8”, and for “in accordance with Part III of this Schedule” there were substituted “in accordance with regulations made under paragraph 5 of Schedule 8.”;</p> <p>(b) for sub-paragraph (2) there were substituted—</p> <p> “(2) In the case of proposals published by the governing body at the request of the governing body or in the case of proposals published by the local education authority at the request of the local education authority, the relevant committee—</p> <p> (a) may modify the proposals after consulting</p> <p> (i) in the case of proposals made by the local education authority the governing body,</p> <p> (ii) in the case of proposals made by the governing body the local education authority, and</p> <p> (b) where any approval under paragraph 3 was given</p>

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	in accordance with sub-paragraph (3) of that paragraph, may specify a later date by which the events in question must occur.”;
	(c) sub-paragraph (4) were omitted;
	(d) for sub-paragraph (5) there were substituted—
	“(5) If—
	(a) the matter to be determined is a request for a modification of proposals under sub-paragraph (2)(a) and after one month from the date which the committee notify bodies whom they consult (pursuant to sub-paragraph (2)(a)) is to be the date by which responses to consultation must be received, the committee have not voted on the matter; or
	(b) the matter to be determined is a request to specify a later date under sub-paragraph (2)(b) and after one month from the date of the request the committee have not voted on the matter; and
	(c) (in either case) the body which published the proposal request the committee to refer that matter to the adjudicator, they shall refer the matter to the adjudicator”;
	(e) in sub-paragraph (6)(a) the words “(in accordance with regulations under paragraph 5 of Schedule 4)” were omitted, and
	(f) in sub-paragraph (7)(b) for “sub-paragraphs (2) to (4)” there were substituted “sub-paragraphs (2) and (3)”, and
	(g) the following were added after paragraph 5—
	“6.—(1) The school organisation committee shall, within two weeks of the date on which such proposals were sent to them, send to the Secretary of State a copy of all

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	<p>proposals published under paragraph 2 or 3 of Schedule 8 and sent to them under section 28.</p> <p>(2) The school organisation committee shall notify the following persons of each decision taken under paragraph 3(2), 5(2) or (3)—</p> <ul style="list-style-type: none"> (a) the body who published the proposals; (b) (if different) the local education authority who maintain the school; (c) (if different) the governing body of the school to which the proposals relate; (d) subject to paragraph (7), each objector; and (e) the Secretary of State. <p>(3) The school organisation committee shall notify the persons referred to in sub-paragraphs (a) to (c) and (e) of sub-paragraph (2) if they refer any proposal to the adjudicator under paragraph 3(5) or (6) or paragraph 5(5) or (6).</p> <p>(4) The adjudicator shall notify the persons referred to in sub-paragraph (2) of any decision taken under paragraph 3(2) or 5(2) or (3).</p> <p>(5) Where, pursuant to sub-paragraph (2), the school organisation committee notify the persons referred to in sub-paragraphs (a) to (e) of sub-paragraph (2) of a decision they shall also give reasons for that decision.</p> <p>(6) Where, pursuant to sub-paragraph (4) the adjudicator notifies the persons referred to in sub-paragraph (2) of a decision he shall also give reasons for that decision.</p> <p>(7) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the school organisation committee or</p>

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	<p data-bbox="932 383 1347 477">adjudicator may comply with subparagraph (2) or (4) as the case may be by—</p> <ul style="list-style-type: none"><li data-bbox="995 490 1347 707">(a) notifying the person (if any) who appears to them to have arranged for the petition to be sent to the local education authority or the school organisation committee; or<li data-bbox="995 723 1347 846">(b) if there is no such person, notifying the objector whose name appears first on the petition. <p data-bbox="932 862 1347 1272">(8) Where proposals (“proposals A”) have been sent to the school organisation committee under section 28(6), and subsequently further proposals are sent to the committee under that section or section 29(5) or 31(5) or paragraph 5(3) of Schedule 7, which in the opinion of the committee are related to proposals A, the school organisation committee shall notify the body who published proposals A of that fact.”</p>