
STATUTORY INSTRUMENTS

2001 No. 798

The School Organisation Proposals by the Learning and Skills Council for England Regulations 2001

Citation and commencement

1. These Regulations may be cited as the School Organisation Proposals by the Learning and Skills Council for England Regulations 2001 and shall come into force on 1st April 2001.

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” means the School Standards and Framework Act 1998;

“the 2000 Act” means the Learning and Skills Act 2000;

“city academy” shall be construed in accordance with section 482(3)(c) of the Education Act 1996(1);

“the Council” means the Learning and Skills Council for England;

“further education college” means an institution within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992)(2);

“16 to 19 institution” means a maintained school which—

- (a) provides full-time education suitable to the requirements of pupils over compulsory school age, and
- (b) does not provide full-time education suitable to the requirements of pupils of compulsory school age;

“mainstream school” means a maintained school other than a special school;

“proposals to discontinue a sixth form” means proposals such as are mentioned in paragraph 16(1) of Schedule 7;

“the school organisation committee” means the school organisation committee for the area of the local education authority who maintain the school the subject of the proposals;

“special school” means a community or foundation special school;

“statement of special educational needs” means a statement of special educational needs maintained under Part IV of the Education Act 1996.

(2) Any reference to Schedule 7 is a reference to Schedule 7 to the 2000 Act.

(3) For the purposes of these Regulations the date of publication of proposals is—

- (a) the date on which the requirements of regulation 4 are satisfied; and
- (b) where different requirements are satisfied on different days, on the last of such days.

(1) 1986 c. 56; section 482(3)(c) was inserted by section 130 of the 2000 Act.

(2) 1992 c. 13.

Information to be contained in published proposals

3.—(1) This regulation prescribes for the purposes of paragraphs 16(2) and 24(2) of Schedule 7, the information which proposals published under paragraph 16 or 24 of Schedule 7 must contain.

(2) Such proposals must contain the information specified in Schedule 1 to these Regulations.

Manner of publication of proposals

4.—(1) This regulation prescribes for the purposes of paragraphs 16(2) and 24(2) of Schedule 7 the manner of publication of proposals required to be published under paragraph 16 or 24 of Schedule 7.

(2) Where the school is mainstream school, such proposals shall be published—

- (a) by being posted in a conspicuous place in the area served by the school;
- (b) in at least one newspaper circulating in that area; and
- (c) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(3) Where the school is a special school, such proposals shall be published—

- (a) in at least one newspaper circulating in the area of the local education authority who maintain the school; and
- (b) by being posted at or near the main entrance to the school or, if there is more than one main entrance, all of them.

Information to be sent to the school organisation committee

5.—(1) This regulation prescribes for the purposes of paragraphs 17(1)(b) and 25(1)(b) of Schedule 7 the information which the Council must send to the school organisation committee.

(2) The Council shall send to the school organisation committee the information specified in Part II of Schedule 2 to these Regulations, where the school is a mainstream school, or Part III of that Schedule, where the school is a special school, together with—

- (a) the information specified in Part IV of that Schedule, where the proposals are to discontinue a sixth form; or
- (b) the information specified in Part V of that Schedule, where the proposals are to discontinue a 16–19 institution.

Other bodies to whom information should be sent—special schools

6.—(1) This regulation prescribes for the purposes of paragraphs 17(2) and 25(2) of Schedule 7 the bodies or persons to whom, in the case of a special school, the Council shall also send a copy of the published proposals and the information referred to in regulation 5.

(2) The Council shall send a copy of the published proposals to—

- (a) the local education authority who maintain the school;
- (b) each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (c) the parents of each registered pupil at the school;
- (d) any Health Authority who acts for any area which includes any part of the area of the local education authority who maintain or who it is proposed should maintain the school; and

- (e) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain the school.

(3) The Council shall send a copy of the information referred to in regulation 5 to the local education authority who maintain the school.

Objections to proposals

7.—(1) This regulation prescribes for the purposes of paragraph 34 of Schedule 7 the period within which objections to the proposals may be sent to the school organisation committee.

(2) Objections to proposals published under paragraph 16 or 24 of Schedule 7 shall be sent to the school organisation committee within one month after the date of publication of the proposals.

Approval of proposals subject to modifications after consultation

8.—(1) This regulation prescribes, for the purpose of paragraph 35(3) of Schedule 7 or, as the case may be, that sub-paragraph as applied by paragraph 35(7) of that Schedule the bodies with whom the school organisation committee or, as the case may be, the adjudicator, must consult before approving proposals subject to modifications.

(2) The bodies prescribed are—

- (a) the Council;
- (b) where the school is a special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (c) the local education authority who maintain the school; and
- (d) the governing body of the school.

Conditional approvals

9.—(1) This regulation prescribes kinds of events for the purposes of paragraph 35(4) of Schedule 7 (which provides that approvals given under paragraph 35(1)(b) or (c) of Schedule 7 may be subject to the occurrence by a specified time of a specified event which is of a prescribed kind).

(2) The kinds of events are—

- (a) the making of an agreement under section 482(1) of the Education Act 1996 for the establishment of a school to be known as a city academy, where the proposals provide for some or all of the pupils currently at the school the subject of the proposals to transfer to such a school;
- (b) any of the following events relating to any other school or proposed school in respect of which proposals have been published under sections 28 or 31 of the 1998 Act—
 - (i) the grant of planning permission under Part III of the Town and Country Planning Act 1990(3);
 - (ii) the acquisition of a site on which the new school, a proposed enlargement of the premises of the school or other alteration of the premises of the school is to be constructed;
 - (iii) the acquisition of playing fields to be provided for the school;
 - (iv) the securing of any necessary access to a site or playing fields referred to in paragraphs (ii) and (iii) respectively of this sub-paragraph;

(3) 1990 c. 8.

- (v) the entering into of a private finance transaction within the meaning of regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(4);
- (vi) the making of any scheme relating to any charity connected with the school or proposed school.

Period after the expiry of which proposals must be referred to the adjudicator if requested

10.—(1) This regulation prescribes periods for the purposes of paragraphs 35(6) and 37(1) of Schedule 7, (which provide that, if by the end of a prescribed period a school organisation committee has not determined what action to take and if the Council so requests, the committee shall refer the proposals or question to the adjudicator, and such reference is made in accordance with regulation 14).

(2) For the purposes of paragraph 35(6) of Schedule 7 the period, subject to paragraph (4), is the period ending two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 34 of Schedule 7 and regulation 7(2), or (if later) two months from the date on which the committee receive the information referred to in regulation 5.

(3) For the purposes of paragraph 37(1) of Schedule 7 the period, subject to paragraph (4), is the period ending—

- (a) where the question relates to a request for modification of proposals, one month from the date which the committee notify bodies whom they consult (pursuant to paragraph 36(2)(a) of Schedule 7 and regulation 11(2)) is to be the date by which responses to the consultation must be received;
- (b) where the question relates to a request to substitute a later time, one month from the date of the request (pursuant to paragraph 36(2)(b) of Schedule 7); and
- (c) where the question relates to a proposal for the committee to make a determination under paragraph 36(2)(c) of Schedule 7, two months from the end of the period within which objections may be sent to the committee in accordance with paragraph 7 of Schedule 3 to these regulations, or (if later) two months from the date on which the committee receive the information specified in paragraph 5 of that Schedule.

(4) Where in the opinion of the committee proposals or a question such as are referred to in paragraphs (2) or (3) (“proposal A”) are related to proposals published under section 28, 29 or 31 of the 1998 Act, or to a matter such as is mentioned in paragraph 5 of Schedule 6 to that Act (“proposal B”) and the period relating to proposal A prescribed under paragraph (2) or (3) would end earlier than the period prescribed in relation to proposal B in regulations made under paragraph 3(5) or 5(5) or Schedule 6 to the 1998 Act, the period relating to proposal A shall expire at the same time as the period relating to proposal B.

Modification of approved proposals

11.—(1) This regulation prescribes, for the purposes of paragraph 36(2) of Schedule 7 or, as the case may be, that sub-paragraph as applied by paragraph 37(3) of that Schedule the bodies whom a school organisation committee or, as the case may be, the adjudicator must consult before modifying approved proposals.

(2) Before modifying approved proposals a school organisation committee or the adjudicator shall consult—

- (a) the local education authority who maintain the school,
- (b) where the school is a special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school, and

- (c) the governing body of the school.

Provision of information

12.—(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 published proposals which are sent to them under paragraph 17 or 25 of Schedule 7 or paragraph 5 of Schedule 3 to these Regulations.

(2) The school organisation committee shall notify the following persons of each decision taken under paragraph 35(1) or 36(2) of Schedule 7—

- (a) the Council;
- (b) the local education authority who maintain the school;
- (c) where the school is a special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (d) the governing body of the school to which the proposals relate;
- (e) subject to paragraph (6), each objector; and
- (f) the Secretary of State.

(3) The school organisation committee shall notify the persons referred to in sub-paragraphs (a) to (d) and (f) of paragraph (2) if they refer any proposals or question to the adjudicator under paragraph 35(5) or (6), or 37(1) or (2) of Schedule 7.

(4) The adjudicator shall notify the persons referred to in paragraph (2) of each decision taken under paragraph 35(7) or 37(3) of Schedule 7 other than any decision provision for the notification of which is made by regulation 15 of the Education (Adjudicators Inquiry Procedure etc.) Regulations 1999(5).

(5) Where, pursuant to paragraph (2) the school organisation committee notify the persons referred to in that paragraph of a decision they shall also give reasons for that decision.

(6) 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 the adjudicator may comply with paragraph (2) or (4) by—

- (a) notifying the person (if any) who appears to them to have arranged for the petition to be sent to the school organisation committee; or
- (b) if there is no such person, notifying the objector whose name appears first on the petition.

(7) Where proposals (“proposals A”) have been sent to the school organisation committee under paragraphs 17 or 25 of Schedule 7, and subsequently further proposals are sent to the committee under section 28(6), 29(5) or 31(5) of the 1998 Act which in the opinion of the committee are related to proposals A the school organisation committee shall notify the Council of that fact and of the effect of regulation 10(4).

Voting of committee on proposals

13.—(1) In this Regulation references to a group of members of a school organisation committee shall be construed in accordance with the Education (School Organisation Committees) (England) Regulations 1999(6).

(2) Each group of members shall collectively have a single vote in relation to any decision of the committee as to—

(5) S.I. 1999/1286.

(6) S.I. 1999/700.

- (a) what action to take under paragraph 35 of Schedule 7 in relation to proposals;
 - (b) whether to take any action under paragraph 36(2) of Schedule 7;
 - (c) what recommendation to give in accordance with paragraph 35(1) of Schedule 7 where that sub-paragraph applies with the modifications specified in paragraph 3 of Schedule 4 to these Regulations; and
 - (d) whether to defer consideration of whether to make any decision or recommendation on any of the matters referred to in sub-paragraphs (a) to (c) above.
- (3) All decisions or questions referred to in paragraph (2) shall be unanimous decisions of those voting.

Time within which reference must be made to the adjudicator

14.—(1) Where by virtue of paragraph 35(5) or 37(2) of Schedule 7, the committee are required to refer any proposals or question to the adjudicator they shall do so within two weeks of the date on which the committee voted but failed to reach a unanimous decision.

(2) Where by virtue of paragraph 35(6) or 37(1) of Schedule 7, the committee are required to refer any proposals or question to the adjudicator they shall do so within two weeks of the receipt of the request under either of those paragraphs.

Proposals published under paragraph 36(4) of Schedule 7

15. Schedule 3 to these Regulations has effect in relation to proposals published under paragraph 36(4) of Schedule 7 (proposals previously published and approved under Schedule 7 not to be implemented).

Schools situated outside the area of the local education authority who maintain them

16. Schedule 4 to these Regulations shall have effect for specifying the modifications to which Parts II and III of Schedule 7 are to be subject in relation to a community, voluntary or foundation school in England which is situated in an area other than that of the local education authority who maintain it.

Change of category of school

17. Where, after proposals have been published under paragraph 16(2) or 24(2) of Schedule 7 but before they have been implemented, a school changes category under Schedule 8 to the 1998 Act from a community or community special school the proposals shall (to the extent that they have not been implemented) be implemented by the local education authority (despite paragraph 38 of Schedule 7).

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Tessa Blackstone
Minister of State,
Department for Education and Employment