

2004 No. 3052

EDUCATION, ENGLAND

The Education (School Organisation Proposals) (Miscellaneous Amendments) (England) Regulations 2004

Made - - - - - *17th November 2004*

Laid before Parliament *25th November 2004*

Coming into force

All provisions except regulations 5-10 *17th December 2004*

Regulations 5-10 *1st February 2005*

In exercise of the powers conferred on the Secretary of State by sections 24, 28(1) and (2) and 138(7) and (8) of and paragraph 5 of Schedule 4, paragraph 5 of Schedule 5, paragraph 3 of Schedule 6 and paragraphs 8 and 9 of Schedule 7 to, the School Standards and Framework Act 1998(a), the Secretary of State for Education and Skills, after consultation with the Council of Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992 (b), hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Education (School Organisation Proposals) (Miscellaneous Amendments) (England) Regulations 2004.

(2) These Regulations except for regulations 5 to 10 shall come into force on 17th December 2004.

(3) Regulations 5 to 10 shall come into force on 1 February 2005.

Amendment of the Education (School Organisation Proposals) (England) Regulations 1999

2. The Education (School Organisation Proposals) (England) Regulations 1999(c) shall be further amended in accordance with regulations 3 and 4.

3. In regulation 9(1) (Conditional Approvals)—

(a) for sub-paragraph (e) there shall be substituted the following sub-paragraph—

“(e) the private finance credit approval given by the Department for Education and Skills following the entering into of a private finance contract by a local education authority or the approval by the Department for Education and Skills of capital grant in an equivalent arrangement for voluntary aided schools”; and

(b) after sub-paragraph (e) there shall be inserted—

(a) 1998 c.31.

(b) 1992 c. 53.

(c) SI 1999/2213 amended by SI 2000/2198, SI 2001/1405 and SI 2003/1229.

“(ea) the entering into an agreement for any necessary building project supported by the Department for Education and Skills in connection with the programme known as “Building Schools for the Future””.

4. In paragraph 3A of Schedule 1 (Alterations for which proposals must be published) after “is at least a year” there shall be inserted “higher or”.

Amendment of the Education (School Organisation Committees) (England) Regulations 1999

5. The Education (School Organisation Committees) (England) Regulations 1999(a) shall be amended in accordance with regulations 6 to 10.

6. In regulation 2(1) (Interpretation) for the definition of “relevant school”, there shall be substituted—

““relevant school” in relation to any authority means any school which falls within any of the categories referred to in regulation 4 and is maintained by the authority;”.

7. In regulation 4(1) (Categories of schools)—

- (a) in sub-paragraph (c) the word “and” shall be omitted;
- (b) at the end of sub-paragraph (d) there shall be inserted “and (e) maintained nursery schools”.

8. In regulation 6(4) (Tenure of members) for sub-paragraph (d), there shall be substituted—

“(d) where the person is a member of the schools group, if he ceases to be a member of the governing body of a relevant school.”

9. In regulation 11(6) (Alternate members), in sub-paragraph (c), the words “where paragraph 4(1) applies,” shall be omitted.

10. In the Schedule (Composition of Membership of the Schools Group)—

(a) for paragraph 1, there shall be substituted—

“1. The composition of the schools group shall be such that it complies with paragraphs 2 and 3 below.”;

(b) for paragraph 2, there shall be substituted—

“2. There shall be at least one member of the group who is—

- (a) where there is at least one primary school (other than a special school or a maintained nursery school) in the area of the authority, a member of the governing body of a primary school;
 - (b) where there is at least one secondary school (other than a special school) in the area of the authority, a member of the governing body of a secondary school;
 - (c) where there is at least one special school in the area of the authority, a member of the governing body of a special school;
 - (d) where there is at least one middle school in the area of the authority, a member of the governing body of a middle school; and
 - (e) where there is at least one maintained nursery school in the area of the authority, a member of the governing body of a maintained nursery school.”;
- (c) in paragraph 3(2), at the end, insert “except where there is a requirement for there to be a member of the governing body of a special school or a maintained nursery school by virtue of paragraph 2”; and
- (d) paragraph 4 shall be omitted.

(a) SI 1999/700.

Amendment of the Education (References to Adjudicator) Regulations 1999

11. The Education (References to Adjudicator) Regulations 1999(a) shall be amended in accordance with regulations 12 and 13.

12. In regulation 2 (Adjudicator to which matters are to be referred)–

- (a) in paragraph (1), for the words “a particular adjudicator” there shall be substituted the words “one or more adjudicators”; and
- (b) in paragraph (2), for the first reference to “a particular adjudicator” there shall be substituted “an adjudicator” and for the second and third references to “the particular adjudicator” shall be substituted “such adjudicator”.

13. After regulation 2, there shall be inserted the following regulation–

“Decision-making where there is more than one Adjudicator

3.—(1) Where the chief adjudicator refers a matter to more than one adjudicator, the chief adjudicator shall appoint one of them to be the lead adjudicator.

(2) In the event of a disagreement between the adjudicators, the matter under consideration shall be determined by the lead adjudicator.”

17th November 2004

David Miliband
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend: the Education (School Organisation Proposals) (England) Regulations 1999 (No 2213) (“the School Proposals Regulations”); the Education (School Organisation Committees) (England) Regulations 1999 (No 700), (“the SOC Regulations”) and the Education (References to Adjudicator) Regulations 1999 (No 702) (“the Adjudicator Regulations”).

The School Proposals Regulations generally prescribe various matters relating to proposals for the establishment, alteration and discontinuance of schools maintained by local education authorities.

Regulation 3 amends regulation 9 of the School Proposals Regulations (which prescribes events which can be specified in a conditional approval) so as to: (a) update the referral to the entering into of a private financial transaction to the issuing of private finance credit approval or approval of capital grant in an equivalent arrangement for voluntary aided schools; and (b) add a new condition (save for where covered by (a)) being the agreement for building projects in connection with the Building Schools for the Future programme.

Regulation 4 amends paragraph 3A of Part 1 of Schedule 1 (which prescribes the types of alterations for which proposals must be published) to the School Proposals Regulations to make it a requirement to publish proposals where the lower age limit is raised by at least a year.

(a) SI 1999/702 amended by S.I. 1999/1286.

The SOC Regulations make provision for the constitution of and aspects of the proceedings of School Organisation Committees and the Schedule to these Regulations prescribes the composition of the school's group.

Regulation 10 amends the Schedule to the SOC Regulations. It amends paragraph 1 to take account of the omission of paragraph 4; it amends paragraph 2 with the effect that the proviso that there is at least one school of a certain type in the area applies to each of the types of the school and a new type - maintained nursery schools- has been added; paragraph 3(2) is amended so as to avoid a potential contradiction between paragraphs 3(2) and 2; and paragraph 4 is omitted.

Regulations 6 - 9 make other consequential amendments to the SOC Regulations.

The Adjudicator Regulations make provision for determining the allocation to adjudicators of matters referred to "the adjudicator".

Regulation 12 amends regulation 2 of the Adjudicator Regulations so as to allow references to be made to more than one adjudicator.

Regulation 13 adds a new regulation to the Adjudicator Regulations which specifies the decision-making process in cases where there is more than one adjudicator.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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