

## EXPLANATORY NOTE

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

These Regulations make provision for the approval of non-maintained special schools by the Secretary of State, and set out the requirements which must be met for a school to continue to be approved as a non-maintained special school. They replace with amendment the Education (Non-Maintained Special Schools) (England) Regulations 1999, the Education (Non-Maintained Special Schools) (England) (Amendment) Regulations 2002 and the Education (Non-Maintained Special Schools) (England) (Amendment) Regulations 2007 which are revoked by these Regulations (regulation 1(3)).

Regulation 3 provides that the proprietor must ensure that conditions of approval (set out in Part 1 of the Schedule) and the requirements following approval (set out in Part 2 of the Schedule) are met. The requirements align with those for maintained special schools.

Regulation 4 provides that approval may be withdrawn for failure to comply with requirements in these Regulations. Approval may not be withdrawn unless written notice has been given to the proprietor and after giving the proprietor time to comply with requirements. Approval must be withdrawn at the request of the proprietor.

Regulations 5 and 6 set out the provisions for appeal against a decision to withdraw approval or in relation to the approval of relevant arrangements (as defined in section 342B of the Education Act 1996). Appeals are made to the First-tier Tribunal. Where approval is withdrawn for failure to comply with requirements in these Regulations under regulation 4(1), the decision will not take effect until the last date for lodging an appeal to the Tribunal has expired if no appeal is made, or where an appeal is made, the appeal is finally determined. (The time-limits for appeals to the First-tier Tribunal are set out in the Schedule to the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008(1)). Where an appeal is made to the Tribunal, the decision to withdraw approval will not take effect until the date specified by the Tribunal.

Part 1 of the Schedule provides for the conditions of approval. These include the arrangements to be made at the school with respect to the pupils at the school and the special educational provision to be made for them (paragraph 1), the arrangements to be made with respect to the composition and proceedings of the governing body (paragraph 2) and the arrangements relating to the welfare of pupils (paragraph 3). The other conditions of approval relate to suitability of staff, registers of checks and suitability of the chair of the governing body, financial interests, premises and fire safety (paragraphs 4 to 10 of Part 1).

Part 2 of the Schedule sets out the requirements which must be complied with following approval and paragraphs 11 to 20 reflect those conditions of approval which are also continuing requirements. The other requirements include: provision for sixth form pupils to withdraw from acts of religious worship in line with the arrangements for maintained special schools (paragraph 24); requirements relating to sex education (paragraph 25); requirements relating to nutritional standards (paragraph 27); requirements relating to complaints procedures (paragraph 35); a

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(1) [S.I. 2008/2699](#).

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Education (Non-Maintained Special Schools) (England) Regulations 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

requirement for non-maintained special schools with residential provision to make copies of welfare inspection reports available to parents, on request (paragraph 36); and a requirement for a school to prepare and publish a prospectus each year which must include the information set out in Part 3.

No regulatory impact assessment has been prepared for these Regulations as the impact on the non-maintained special schools sector is minimal.

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**Changes and effects yet to be applied to :**

- Sch. para. 1 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 2 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 3 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 4 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 5 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 6 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 7 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 8 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 9 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 10 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 11 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 12 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 13 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 14 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 15 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 16 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 17 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 18 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 19 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 20 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 21 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 22 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 23 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 24 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 25 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 26 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 27 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 28 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 29 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 30 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 31 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 32 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 33 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 34 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 35 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 36 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 37 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 38 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 39 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- Sch. para. 4(3) substituted by [S.I. 2015/387 reg. 4\(1\)](#)
- Sch. para. 5(2)(a)(ii) substituted by [S.I. 2015/387 reg. 4\(3\)](#)
- Sch. para. 6(5) substituted by [S.I. 2015/387 reg. 4\(4\)](#)
- Sch. para. 7 substituted by [S.I. 2015/387 reg. 4\(5\)](#)
- Sch. para. 5(2)(a)(i) words inserted by [S.I. 2015/387 reg. 4\(2\)](#)
- Sch. para. 29 words substituted by [S.I. 2014/2103 art. 38\(a\)](#)
- Sch. para. 17 words substituted by [S.I. 2015/387 reg. 4\(6\)](#)
- Regulations revoked by [S.I. 2015/728 reg. 8](#)
- reg. 1 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.I. 2011/1627 reg. 1\(1\)](#)
- reg. 2(1) words inserted by [S.I. 2015/387 reg. 3\(1\)\(a\)](#)

- reg. 2(1) words inserted by S.I. 2015/387 reg. 3(1)(c)
- reg. 2(1) words inserted by S.I. 2015/387 reg. 3(1)(d)
- reg. 2(1) words inserted by S.I. 2015/387 reg. 3(1)(e)
- reg. 2(1) words substituted by S.I. 2015/387 reg. 3(1)(b)
- reg. 2(2) substituted by S.I. 2015/387 reg. 3(2)
- reg. 2(4)(b) word deleted by S.I. 2015/387 reg. 3(3)
- reg. 3 coming into force by S.I. 2011/1627 reg. 1(1)
- reg. 4 coming into force by S.I. 2011/1627 reg. 1(1)
- reg. 5 coming into force by S.I. 2011/1627 reg. 1(1)
- reg. 6 coming into force by S.I. 2011/1627 reg. 1(1)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. Pt. 1 para. 4(6)(c) words inserted by S.I. 2012/979 Sch. para. 32(2)
- Sch. Pt. 1 para. 5(4)(c) words inserted by S.I. 2012/979 Sch. para. 32(2)
- reg. 2(4)(c)(d) substituted for reg. 2(4)(c) by S.I. 2015/387 reg. 3(4)
- reg. 2(5) inserted by S.I. 2015/387 reg. 3(5)