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PROSPECTIVE

## SCHEDULE **E+W**

### PART 2 **E+W**

#### REQUIREMENTS TO BE COMPLIED WITH BY A SCHOOL WHILE APPROVED UNDER SECTION 342 OF THE 1996 ACT

##### Special educational provision **E+W**

**11.**—(1) The arrangements made at the school with respect to the matters referred to in paragraph 1 are in accordance with the approval given by the Secretary of State.

(2) Where, at any time, a change is proposed in relation to the arrangements at a school for the special educational provision to be made for pupils with special educational needs, the proprietor must give written notice of the proposed change to the Secretary of State, and no proposed change in arrangements may take effect unless it is approved by the Secretary of State.

##### Commencement Information

**11** Sch. para. 11 in force at 1.9.2011, see [reg. 1\(1\)](#)

##### Governing body **E+W**

**12.**—(1) The arrangements to be made at the school with respect to the matters referred to in paragraph 2(1) are in accordance with the approval given by the Secretary of State, and meet the requirements in paragraph 2(2).

(2) Where, at any time, a change is proposed in relation to the arrangements at a school with respect to the composition and proceedings of the governing body, the proprietor must give written notice of the proposed change to the Secretary of State.

(3) No proposed change in arrangements may take effect unless—

- (a) it is approved by the Secretary of State, and
- (b) the arrangements comply with paragraph 2(2).

##### Commencement Information

**12** Sch. para. 12 in force at 1.9.2011, see [reg. 1\(1\)](#)

##### Welfare of pupils **E+W**

**13.**—(1) The arrangements at the school with respect to the matters referred to in paragraph 3 are in accordance with the approval given by the Secretary of State.

(2) The school complies with the National Minimum Standards in relation to safeguarding and promoting the health, safety and welfare of children for whom it provides accommodation.

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**Commencement Information**

**I3** Sch. para. 13 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Suitability of staff** **E+W**

**14.** A person must not be appointed to a position at the school unless the checks referred to in paragraph 4(2) to (5) have been carried out in relation to that person.

**Commencement Information**

**I4** Sch. para. 14 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Supply staff** **E+W**

**15.** Where supply staff are employed at the school, paragraphs 5(2), (3), (5) and (7) must be complied with.

**Commencement Information**

**I5** Sch. para. 15 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Register of checks** **E+W**

**16.—(1)** A register is maintained that meets the requirements set out in paragraph 6(2), (3), (5) and (6).

(2) The register must be available for inspection at the school during school hours by the Chief Inspector for the purpose of carrying out functions under Part 1 of the 2005 Act.

(3) The register required to be maintained under this paragraph may be maintained in electronic form, provided that any information recorded is capable of being reproduced in legible form.

**Commencement Information**

**I6** Sch. para. 16 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Suitability of the chair of the governing body** **E+W**

**17.** Before any person is appointed as chair of the governing body, the requirements in paragraph 7(2) to (4) have been complied with.

**Commencement Information**

**I7** Sch. para. 17 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Financial interests** **E+W**

**18.—(1)** The school is not conducted for profit.

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(2) No member of the staff may have a financial interest in the school other than by reason of receiving a salary that is unrelated to the financial performance of the school.

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**Commencement Information**

**I8** Sch. para. 18 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Premises** **E+W**

**19.**—(1) Subject to sub-paragraph (2), the premises of the school conform to the standards applicable to maintained special schools prescribed in regulations from time to time in force under section 542 of the 1996 Act.

(2) Where the Secretary of State has directed that different standards apply in accordance with paragraph 9(2), the premises conform to the standards specified in the direction for as long as the direction remains in force.

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**Commencement Information**

**I9** Sch. para. 19 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Fire safety** **E+W**

**20.** The Regulatory Reform (Fire Safety) Order 2005 is complied with.

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**Commencement Information**

**I10** Sch. para. 20 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Admissions and special educational provision** **E+W**

**21.**—(1) No pupil may be admitted to a school unless that pupil falls within the arrangements approved for that school in relation to the categories referred to in paragraph 1(a).

(2) The special educational provision made under the arrangements referred to in paragraph 1(b) must be suitable for the registered pupils at the school having regard to their different ages, abilities and aptitudes and any special educational needs they may have, and constitute an efficient use of resources.

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**Commencement Information**

**I11** Sch. para. 21 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Pupil numbers** **E+W**

**22.** The number of registered pupils at the school must at no time exceed the number specified in the arrangements approved by the Secretary of State.

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**Commencement Information**

**I12** Sch. para. 22 in force at 1.9.2011, see [reg. 1\(1\)](#)

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## Health of pupils **E+W**

**23.**—(1) Appropriate arrangements must be in place—

- (a) for the care and supervision of the health of the registered pupils at the school by suitably qualified and experienced persons including, where relevant, provision for pupils with particular types of disability, and
- (b) for the maintenance of medical and dental records.

(2) Without prejudice to the generality of sub-paragraph (1), arrangements must be made for the medical and dental inspection of the pupils at appropriate intervals, and for their medical and dental treatment.

### Commencement Information

**I13** Sch. para. 23 in force at 1.9.2011, see [reg. 1\(1\)](#)

## Religious education and religious worship **E+W**

**24.** Arrangements must be made to ensure, so far as is practicable, that every registered pupil at the school—

- (a) receives religious education, unless withdrawn from receiving such education in accordance with the wishes of the pupil's parent, and
- (b) attends religious worship unless withdrawn from attendance at such worship—
  - (i) in the case of a sixth-form pupil, in accordance with the pupil's own wishes, and
  - (ii) in any other case, in accordance with the wishes of the pupil's parent.

### Commencement Information

**I14** Sch. para. 24 in force at 1.9.2011, see [reg. 1\(1\)](#)

## Sex education **E+W**

**25.**—(1) Arrangements must be made to ensure that every registered pupil who is provided with secondary education receives sex education unless wholly or partly excused from such education (except in so far as it is comprised in the National Curriculum) in accordance with a request from the pupil's parent.

(2) Arrangements may be made for registered pupils provided with primary education to receive sex education unless wholly or partly excused from such education in accordance with a request from the pupil's parent.

(3) Arrangements must be made, in relation to registered pupils who are provided with primary and secondary education at the school, to—

- (a) make and keep up to date—
  - (i) a written statement of the school's policy with regard to sex education for pupils provided with primary education, and
  - (ii) a written statement of the school's policy with regard to sex education for pupils provided with secondary education, and
- (b) make a copy of both statements available for inspection, at all reasonable times, by parents of pupils at the school and provide a copy of the statement free of charge to any such parent who asks for one.

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(4) In this Schedule, and in relation to registered pupils who are provided with secondary education, “sex education” includes education about—

- (a) Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus, and
- (b) any other sexually transmitted disease.

#### Commencement Information

**I15** Sch. para. 25 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Meals and refreshments **E+W**

**26.**—(1) Facilities must be provided to enable the consumption of any meals or refreshments brought to school by registered day pupils.

(2) A school lunch must be provided where this is requested by, or on behalf of, a registered day pupil unless—

- (a) it would be impracticable to comply with this request, or
- (b) the pupil in question has not reached compulsory school age and is being provided with part-time education.

(3) Subject to sub-paragraphs (4) and (5), a charge may be made for the provision of meals or other refreshments to registered day pupils, and each pupil must be charged the same price for the same quantity of every item.

(4) Where any registered day pupil is in receipt of—

- (a) income support,
- (b) income-based jobseeker’s allowance (payable under the Jobseekers Act 1995<sup>(1)</sup>),
- (c) income-related employment and support allowance, or
- (d) any other benefit or allowance prescribed under section 512ZB(4)(c)(i) of the 1996 Act<sup>(2)</sup> and meets such conditions prescribed under section 512ZB(4)(c),

a school lunch must be provided for the pupil free of charge and, where milk is provided for the pupil, it must be provided free of charge.

(5) Where the parent of any registered day pupil is in receipt of—

- (a) income support,
- (b) income-based jobseeker’s allowance (payable under the Jobseekers Act 1995),
- (c) income-related employment and support allowance,
- (d) support provided under Part 6 of the Immigration and Asylum Act 1999<sup>(3)</sup>, or
- (e) any other benefit or allowance prescribed under section 512ZB(4)(aa)(i) of the 1996 Act, in such circumstances as may be prescribed under section 512ZA(4)(aa), and the pupil meets any conditions prescribed under that provision,

a school lunch must be provide for the pupil free of charge and, where milk is provided for the pupil, it must be provided free of charge.

(6) Where—

(1) 1995 c.18.

(2) Section 512ZB was substituted, together with sections 512, 512ZA for section 512 as originally enacted, by the 2002 Act, section 201(1). Subsection (4)(aa) and (c) were inserted by the Child Poverty Act 2010 (c.9), section 26(1)(c) and (e).

(3) 1999 c.33.

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- (a) any registered day pupil is entitled to any tax credit under the Tax Credits Act 2002(4) or element of such a tax credit that is prescribed under section 512ZB(4)(c)(ii) of the 1996 Act, and meets such conditions as may be prescribed under section 512ZB(4)(c), or
- (b) The parent of any registered day pupil is entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit that is prescribed under section 512ZB(4)(aa)(ii) of the 1996 Act, in such circumstances as may be prescribed under section 512ZB(4)(aa), and the pupil meets any conditions prescribed under that provision.

(7) No charge may be made for the facilities provided under sub-paragraph (1).

(8) Nothing in this paragraph is to be construed as precluding the taking into account of the net cost of providing for registered day pupils—

- (a) such facilities as are mentioned in sub-paragraph (1), and
- (b) meals and other refreshments,

when determining the tuition and other fees payment of which is a condition of attendance at the school.

(9) In this paragraph “school lunch” in relation to a pupil, means food made available for consumption by the pupil as a midday meal on a school day.

#### Commencement Information

**I16** Sch. para. 26 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Nutritional standards **E+W**

**27.** The nutritional standards and requirements applicable to maintained special schools prescribed in regulations under section 114A of the Schools Standards and Framework Act 1998(5) must be complied with.

#### Commencement Information

**I17** Sch. para. 27 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Incident books and records **E+W**

**28.—(1)** An incident book must be kept which records—

- (a) any incident involving a person who is a registered pupil, is employed at, or is a volunteer working at the school, which results in personal injury or damage to property, and
- (b) any loss of, theft of, or damage to, school property or property belonging to a person who is a registered pupil, is employed at, or is a volunteer working at the school (other than as referred to in sub-paragraph (a)),

and may record any other incidents and matters.

(2) A record must be kept of all disciplinary measures taken against registered pupils.

(4) [2002 c.21](#).

(5) Section 114A was inserted by section 86(1) of the Education and Inspections Act 2006 and amended by [S.I. 2010/1158](#). Regulations currently in force are the Education (Nutritional Standards and Requirements for School Food) (England) Regulations 2007 [S.I. 2007/2359](#), amended by [S.I. 2008/1800](#) and [2011/1190](#).

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#### Commencement Information

**I18** Sch. para. 28 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Reports on pupils to local authorities **E+W**

**29.** A report on each registered pupil in respect of whom a local authority maintains a statement under section 324 of the 1996 Act must be made to that authority at least once a year.

#### Commencement Information

**I19** Sch. para. 29 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Non-teaching staff in residential schools **E+W**

**30.** Without prejudice to paragraphs 4 and 5, in the case of a residential school, staff who are employed at the school must be suitably qualified and sufficient in number for the purpose of ensuring that pupils accommodated at the school (including any pupils accommodated during school holidays) are properly cared for and supervised.

#### Commencement Information

**I20** Sch. para. 30 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Teaching of religious education **E+W**

**31.** No person employed at the school may receive less pay or be deprived of, or be disqualified from, promotion or other advantage, for reasons of religion or because that person does, or does not, teach religious education.

#### Commencement Information

**I21** Sch. para. 31 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Accounts **E+W**

- 32.—**(1) Proper accounts, and proper records in relation to those accounts, must be kept.
- (2) An annual statement of accounts must be prepared.
- (3) The accounts and annual statement of accounts must be audited by an auditor eligible for appointment as a company auditor under section 1212 of the Companies Act 2006(6).
- (4) If the Secretary of State so directs, a copy of the annual statement of accounts for any year or years specified in the direction and the auditor's report in respect of that or those years, must be sent to the Secretary of State.
- (5) A copy of the annual statement of accounts for the last year for which it is available must, on request, be sent to any local authority which arranges for pupils to attend the school.

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#### Commencement Information

**I22** Sch. para. 32 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Reports and returns **E+W**

**33.**—(1) The proprietor must send to the Secretary of State any reports, returns or other information relating to the school as requested by the Secretary of State and within the timescale specified in the request.

(2) The proprietor must report the death, and the cause of death (if known), of any registered pupil to the Secretary of State in writing as soon as is reasonably practicable after the death has occurred.

#### Commencement Information

**I23** Sch. para. 33 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Access to school by local authorities and participation in annual reviews **E+W**

**34.**—(1) A person authorised by a local authority which arranges for pupils to attend the school must be allowed access to the school at all reasonable times.

(2) At the request of the local authority, the governing body, head teacher and staff of a school must participate in any review, conducted by the authority under section 328 of the 1996 Act, of a statement under section 324 of that Act which relates to any registered pupil at the school, making no charge to the authority for their participation.

#### Commencement Information

**I24** Sch. para. 34 in force at 1.9.2011, see [reg. 1\(1\)](#)

#### Complaints **E+W**

**35.**—(1) There must be a complaints procedure in operation at the school which—

- (a) is in writing,
- (b) is available on request to—
  - (i) registered pupils,
  - (ii) the parents of registered pupils,
  - (iii) the parents of prospective pupils, and
  - (iv) members of staff, including supply staff, and
- (c) sets out clear time scales for the management of a complaint.

(2) The complaints procedure must allow for a complaint to be made and considered initially on an informal basis.

(3) Where a complainant is not satisfied with the response to the complaint made in accordance with sub-paragraph (2), the complaints procedure must make provision for a procedure for the complaint to be made in writing.



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(4) Where a complainant is not satisfied with the response to the complaint made in accordance with sub-paragraph (3), the complaints procedure must make provision for the complaint to be considered by a person (“the independent person”) appointed by or on behalf of the proprietor who—

- (a) has not, at any time, been a governor of the school, or a member of staff, or member of supply staff, at the school,
- (b) is not the parent of a registered pupil, or former registered pupil, at the school, and
- (c) has not been directly involved in any matter detailed in the complaint.

(5) The complaints procedure must provide for the independent person to make findings and recommendations, and stipulate that the complainant, proprietor and head teacher, and where relevant, the person complained about, are to be given a copy of any findings and recommendations.

(6) The complaints procedure must—

- (a) provide for a written record to be kept of all complaints, and of whether they are resolved informally, at the preliminary stage or proceed to be considered by the independent person,
- (b) provide that correspondence, statements and records relating to individual complaints are to be kept confidential, and may only be disclosed where the Secretary of State or the Chief Inspector conducting an inspection under section 5 of the 2005 Act requests access to them, and
- (c) where the school provides accommodation, comply with the National Minimum Standards concerning accommodation.

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#### Commencement Information

**I25** Sch. para. 35 in force at 1.9.2011, see [reg. 1\(1\)](#)

### Inspection reports **E+W**

**36.**—(1) A copy of the most recent report published by the Chief Inspector under section 11 of the 2005 Act must be made available, on request, to the parents of registered pupils and prospective pupils.

(2) Following an inspection under section 87(6) of the Children Act 1989, a copy of any report of that inspection must be sent to the parents of any registered pupil for whom the school provides accommodation.

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#### Commencement Information

**I26** Sch. para. 36 in force at 1.9.2011, see [reg. 1\(1\)](#)

### Prospectus **E+W**

**37.**—(1) A prospectus must be prepared and published in advance of each school year providing information about the school in relation to the school year in question and including the information specified in Part 3.

(2) A copy of each year’s prospectus must be made available, on request, to any local authority and to the parents of registered pupils and prospective pupils.

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**Commencement Information**

**I27** Sch. para. 37 in force at 1.9.2011, see [reg. 1\(1\)](#)

**Temporary arrangements** **E+W**

**38.** Where notice has been given under regulation 4(2)(a), and the Secretary of State has approved relevant temporary arrangements and directed that the proprietor put them into operation, those temporary arrangements must operate pending compliance with the requirements specified in the notice.

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**Commencement Information**

**I28** Sch. para. 38 in force at 1.9.2011, see [reg. 1\(1\)](#)

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

- Regulations revoked by [S.I. 2015/728 reg. 8](#)

**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\(5\)](#)