



Consultation on the Draft Education (Maintained Special Schools) (Amendment) (England) Regulations

This consultation will allow interested parties the opportunity to comment on the amendments the Secretary of State proposes to make to the Principal Regulations with respect to the organisation of special schools, The Education (Maintained Special Schools) (England) Regulations 1999.

Launch Date:

1 September 2003

Respond by:

28 November 2003

Ref: DfES/0531/2003

department for

education and skills

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Consultation on the Draft Education (Maintained Special Schools) (Amendment) (England) Regulations

A Consultation

with a sample of maintained and foundation special schools, Local Education Authorities, Chairs of School Organisation Committees, the Schools Adjudicator, Learning and Skills Council, Local Government Association, representative bodies for school governors and Foundation Schools, Special Educational Needs (SEN) Regional Partnerships, SEN interest groups, National Assembly for Wales, bodies on the Department for Education And Skills list of bodies routinely consulted who are judged to have an interest in this consultation.

Issued 1 September 2003

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1 Executive Summary

- 1.1 It is proposed that these draft Education (Maintained Special Schools)(Amendment) (England) Regulations should amend the Education (Maintained Special Schools) (England) Regulations 1999 (referred to as the 'Principal Regulations' throughout this document) to take account of recent changes to primary legislation and developments in Government policy. The Principal Regulations apply to special schools maintained by local education authorities and comprise the current regulations with respect to the procedures that local education authorities, school governors, School Organisation Committees (referred to as SOC throughout this document) and the Schools Adjudicator must follow when submitting or determining proposals under Section 31 of The School Standards And Framework Act 1998 for new schools, or to alter or discontinue existing ones.
- 1.2 The main changes are:
- (a) where it is intended that the governing body of the school which is the subject of the proposals will become part of a new or existing federation of governing bodies, as allowed for within the meaning of Section 24(2) of The Education Act (2002), statutory proposals will take effect only if this federation comes into being by the date specified;
 - (b) new provision is made (regulation 8) imposing limitations on the SOC's new power to refer matters to the adjudicator and on the local education authority's powers to refer matters to the SOC;
 - (c) new provision is made (regulation 8) covering a reference to the adjudicator if proposals to make an alteration to a school are rejected under paragraph 3(6C)(b) of Schedule 6 to the School Standards and Framework Act 1998 inserted by Schedule 10 to the Education Act 2002;
 - (d) Schedule 3 to the Principal Regulations is replaced (regulation 13). Changes require any body publishing proposals under section 31 of the School Standards and Framework Act 1998 to include certain information in relation to the proposals on inclusiveness and partnership working. A new Part VI has been inserted which sets out the information to be provided where a school discontinues its sixth form provision.

The Regulations also make other minor and consequential amendments.

- 1.3 The Amendment Regulations mirror most of the provisions related to the procedures governing the consideration of proposals by SOC and the Schools Adjudicator in the equivalent regulations for mainstream schools, The Education (School Organisation Proposals) (England) (Amendment) Regulations 2003. These are referred to as The Mainstream Amendment Regulations throughout this document and amend The Education (School Organisation Proposals)(England) Regulations 1999 (The School Organisation Amendment Regulations). There is a notable exception. Because almost all proposals relating to special schools are complex and/or contentious, we believe it would be unreasonable to mirror the provisions in the School Organisation Amendment Regulations to reduce the period during which most proposals can be objected to from two months to six weeks. Consequently, we do not intend to amend Regulation 8 of the Principal Regulations. Neither is it proposed that the deadline for proposals to be forwarded by the local education authority to the School Organisation Committee (SOC) should be reduced from four weeks to two. (The consultation draft of the School Organisation Amendment Regulations made this proposal, but it was dropped in response to consultees' opposition to it.)

- 1.4 It should be noted also that, unlike for the new regulations in relation to mainstream secondary schools, Section 70 of the Education Act 2002 does not extend to proposals for additional special schools. It is, therefore, unnecessary for regulations applying to special schools to reflect the provisions in the Education (Additional Secondary Schools Proposals) (England) Regulations 2003.

2 Background and Context

- 2.1 The School Standards And Framework Act comprises the primary legislation with respect to the current system for local decision making on statutory proposals about school organisation. The Principal Regulations comprise the secondary legislation which describes in detail the procedures that must be followed when proposals are made with respect to special schools. They are similar, though not identical to the unamended Education (School Organisation Proposals)(England) Regulations 1999, which cover proposals with respect to mainstream schools. However, these were amended in 2000, 2001 and this year and their scope has been broadened considerably. This makes the differences between them and the Principal Regulations more pronounced.
- 2.2 Although many of the amendments to the regulations on mainstream proposals relate to matters which do not affect special schools – City Academies for example – the Principal Regulations still need to be amended. In particular, they must take account of the provisions in the Education Act 2002 to enable proposals to be made by or for schools with federated governing bodies and various procedural changes in the way SOCs and the Schools Adjudicator operate.
- 2.3 In recognition of the importance the Government attaches to special schools functioning as an integral element of, and a resource base for, the wider educational community, we propose that Schedule 3 of the Amendment Regulations should be bolstered to require proposers to include information with proposals which demonstrates that inclusion, collaborative working with other schools or institutions in the further education sector and the impact on health services and on schools regionally is taken into account.
- 2.4 As noted in the Executive Summary, we do *not* intend to change certain provisions to bring the Principal Regulations as closely in line with the Mainstream Amendment Regulations as they could be. There is not means in primary legislation to allow LEAs to invite proposals from outside bodies for additional secondary special schools or from the governing bodies of existing community special schools to make proposals relating to their schools. At the time the Education Act 2002 was being drafted the policy decision was taken not to amend the School Standards And Framework Act to allow for proposals to be made by bodies other than the local education authority or the governing body of one of the few foundation special schools – where they wish to discontinue their school or make prescribed alterations to it. The Government believes that local education authorities are best placed to take an informed over view of their provision in an unbiased manner.
- 2.5 Raising the standard of provision for 16 to 19 year olds is an important element of education policy. Within that, it is essential that young people with special educational needs have access to high quality provision relevant to their needs. Consequently, the draft regulations would bolster the requirements for information on the quality of the sixth form provision available and ensure that the Learning And Skills Council is kept informed of proposals.

3 The proposals

A Requirement To Provide The Information Specified In The New Schedule 3 Part VI On Additional Information To Be Supplied Where The Proposal Is To Discontinue A Sixth Form (Regulation 4 of the Amendment Regulations)

- 3.1 This new part of the reframed Schedule 3 is discussed in detail at paragraph 3.7(e).

'Objection Period' To Be Changed To 'Representation Period' And A New Duty For The SOC's To Consider Objections To And Comments On Proposals (Regulation 6 of The Amendment Regulations)

- 3.2 As noted in the Executive Summary, it is not proposed that the Amendment Regulations should mirror the Mainstream Amendment Regulations by changing Regulation 8 of the Principal Regulations to reduce the period during which objections can be made to most proposals from two months to six weeks. However, the Amendment Regulations do follow the Mainstream Amendment Regulations in renaming the objection period the 'representation' period and in requiring SOC's to consider comments on proposals which are not objections as such.

Proposals Relating To Schools Which Are Part Of Or Intending To Set Up Or Join A Federation (Regulation 7 of the Amendment Regulations, Regulation 10 of the Principal Regulations)

- 3.3 Where it is intended that the governing body of the school which is the subject of the proposals will become part of a new or existing federation of governing bodies as allowed for within the meaning of Section 24(2) of The Education Act (2002) statutory proposals will take effect only if this event (i.e. the federation) takes place by the date specified. This provision takes account of the fact that Section 74 of the Education Act 2002 permits proposals to be made under Section 31 of the School Standards and Framework Act for federated special schools.

Limitation On The SOC's New Power To Refer Matters To The Schools Adjudicator, LEAs' Powers To Refer Proposals To The SOC And Reference To The Schools Adjudicator of Proposals Rejected By The SOC (Regulation 8 of The Amendment Regulations, Proposing New Regulations 11A, 11B And 11C TO The Principal Regulations)

- 3.4 Regulation 8 of the Amendment Regulations imposes limitations on SOC's' new powers to refer matters to the adjudicator. It limits also the local education authorities' powers to refer proposals to the SOC and the SOC's powers to refer proposals to the adjudicator. Regulation 11 of the Principal Regulations prescribes periods for the purposes of paragraphs 3(5) and 5(5) of Schedule 6 and paragraph 8(5) of Schedule 7 to the School Standards And Framework Act after which, and subject to certain conditions, the SOC will refer proposals to the adjudicator. Regulation 4(4A) of Schedule 6 of the School Standard And Framework Act (inserted by Schedule 10 of the Education Act 2002) allows local education authorities to refer proposals to the SOC that would otherwise fail to be determined. It allows also reference to the adjudicator if proposals to make an alteration to a school are rejected under paragraph 3(6C)(b) of Schedule 6 to the School Standards and Framework Act (again, inserted by Schedule 10 to the Education Act 2002).

3.5 Specifically:

- a. the SOC may refer any proposals to the adjudicator only if
 - (i) they have voted on the proposals or matter, but
 - (ii) at least two groups of members did not vote because they had declared an interest in the proposals or matter in question (new Regulation 11A);
- b. where a proposal would be determined normally by the local education authority, the Amendment Regulations allow the authority to refer the proposals to the SOC. This would only be for cases where they consider that a decision is needed on a key issue, such as a proposal to federate several schools, in order for other proposals, such as those relating to individual schools within the federation, to be considered;
- c. where the proposal is for an alteration of a prescribed description as per those specified in Schedule 1 of the Principal Regulations, the SOC will be required to refer the proposals to the adjudicator, if the governing body of the school requests them to do so.

The Learning And Skills Council To Be Notified Of Proposals Where They Relate To Sixth Form Provision, Regulation 9 Of The Amendment Regulations, Regulation 13 Of The Principal Regulations

- 3.6 Where proposals are with respect to sixth form provision, it is proposed that SOC's should inform the Learning And Skills Council within two weeks of the Committee receiving them.

New Schedule 3 On Additional Information To Be Submitted With Proposals

- 3.7 Some of the most significant changes proposed in the draft Amendment Regulations are contained in the reframed Schedule 3. This replaces the current schedule in the Principal Regulations in its entirety. The new provisions require any body publishing proposals under Section 31 of the School Standards and Framework Act to include certain information in relation to the proposals on inclusiveness, partnership working (including taking account of the views of the Strategic Health Authority and the relevant NHS Trusts) and of the impact of the proposals regionally (except where the proposal is to make prescribed alterations). A new Part VI has been inserted which sets out the information to be provided where a school discontinues its sixth form provision. Although there are no regulatory requirements as to which bodies proposers should consult prior to proposals being published, in order to supply the information the new schedule stipulates, they will need to have consulted certain bodies, for example the Health Authority. Likewise, proposers will have to demonstrate that they have considered whether formalised collaborative working arrangements with other schools have been considered. Proposers will need to provide information over and above that required by the Principal Regulations currently. The Amendment Regulations will require that proposals include additional information on:

- a. *Part II, Information To Be Sent With All Proposals*
 - i) a list of the facilities and provision made in the local education authority area for pupils with low incidence special educational needs. This list would be most useful where the proposal is to discontinue or modify existing provision for pupils with these needs. It will help the SOC to assess whether there is sufficient alternative provision for these groups of children, a significant proportion of whom are likely to be served best by special school provision. By definition, the numbers of children with low incidence SENs will be small and it may make economic and practical sense for provision for them to be agreed regionally;

- ii) proposals must contain information as to the numbers of pupils with special educational needs for whom the local education authority does not maintain a statement of special educational needs and where special provision is made for them by the local education authority from funds held centrally or by delegation of its funds to the schools which the pupils attend. The authority would be required also to forecast the numbers of these pupils for five school years. This provision reflects the fact that nearly all children with special educational needs will be educated in mainstream schools, most do not have statements and a significant proportion of them will require at least some specialist support. It would give a false picture if this is not taken into account in any assessment of a local education authority's provision for pupils with special educational needs (Regulation 10(2));
- b. Part III, Proposals To Establish A New School
 - i) the arrangements proposed for links between the new school and any special school, mainstream schools and, where appropriate, between the new school and institutions in the further education sector. An important element of the Government's policy with respect to special schools is that they should be increasingly outward looking and a resource that the wider educational community can draw on. A proposal for a new school would undoubtedly be strengthened if the supporting evidence showed that its future role in outreach and cooperative work had been thought through (Regulation 16);
 - ii) *consultations undertaken in connection with the proposed school with the relevant Strategic Health Authority and NHS Trusts*. We have included this requirement for all types of proposal. There is almost always an important interface between NHS funded provision and special schools, for example speech and language therapy and child mental health services. Consultation with health bodies would enable them to identify potential problems in meeting extra demands on their services and plan strategically to take account of the new educational provision, see below;
 - iii) *the measures taken to assess the impact of the discontinuance of the school regionally*. The Amendment Regulations would require the regional impact to be considered where the proposal is for a new school (Part III), for a school to close (Part V) and to discontinue a sixth form (Part VI), see below. As many local education authority areas have become smaller, and it is no longer practicable for every authority to provide special schools for children with all low incidence special educational needs, there is a case for regional collaboration. The Special Educational Needs Regional Partnerships will continue to play an important role in facilitating this cooperation.
- c. *Part IV, Proposals To Make Prescribed Alterations* remain as per the Principal Regulations other than to require details of consultations with Strategic Health Authorities and NHS Trusts identical to those in Part III, V and VI of the schedule.
- d. *Part V, Proposals To Discontinue A School* remains as per the Principal Regulations other than to require details of consultations with the Strategic Health Authority and NHS Trusts and on the regional impact identical to those in Part III, IV, V and VI.
- e. *Part VI, Proposals To Change The Upper Age Limit Of A School So That It Ceases To Provide A Sixth Form*. Proposals must include the same information with them as those to discontinue a whole school, but with the additions listed below. These are all designed to ensure that a proper assessment of the impact of the proposals has been made, both in terms of their scope and the impact they will have on the quality of further education provision over all. The new provisions are:

- i) details of alternative provision to be made for pupils over compulsory school age at the school and any transitional arrangements which may apply (Regulation 57). This would include alternative provision to be made by local education authorities other than the local education authority which maintain the school and institutions within the further education sector;
- ii) details of any arrangements for staff employed at the school to transfer to other schools or institutions within the further education sector (Regulation 57);
- iii) details of the distance measured by the nearest available route and travelling times from the school to the schools or institutions within the further education sector named in accordance with paragraph 56 together with details of the existing public transport available to the schools or institutions remaining and the and new arrangements that would be made for getting pupils there currently attending the school which is the subject of the proposals (Regulation 58);
- iv) details of the curriculum at each of the schools or institutions within the further education sector to which it is proposed that the pupils are to transfer (Regulation 59) and an assessment of the quality of it (Regulation 61);
- v) where the pupils at the school which is the subject of the proposals have undertaken courses leading to accreditation by bodies moderating national examinations in the two academic years prior to the proposal being made, details of examination passes will be required. Details of the passes achieved by both the school which is the subject of the proposals and, where they are within daily travelling distance of this school, details of the examination passes achieved at other special schools, mainstream schools and institutions within the further education sector (Regulation 60) will be required;
- vi) details of the impact of consultations with the Strategic Health Authority or NHS Trusts and the discontinuance of the provision regionally as per other parts of the schedule, regulations 62 and 63.

Minor Amendments

- 3.8 The Amendment Regulations contain some minor amendments which do not affect existing procedures or policy. For example, Regulation 11 of the Amendment Regulations updates Regulation 19 of the Principal Regulations to cite the Special Educational Needs (England)(Consolidation) Regulations 2001a. These are the current regulations covering admissions procedures.

4 How to respond

- 4.1 We should be grateful for your/your organisation's views on the Amendment Regulations generally and on any of the questions with respect to the main proposals which you wish to give your views on.

You may e-mail us at MSS.REGSCONSULTATION@dfes.gsi.gov.uk.

If you require advice about the consultation generally, please telephone the Department's Consultation Unit, 01928 794888

If you require advice about the underlying policy considerations, please telephone Richard McElheran or Georgina Carney on 01325 391203 and 01325 391209 respectively.

5 Additional Copies

- 5.1 You may obtain additional copies of this document from:

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6 Plans for Making Results Public

- 6.1 It is intended that a summary of the views expressed (subject to respondents' requests for confidentiality) will be available at www.dfes.gov.uk/consultations/sor/results_sor.htm and the reasons for decisions finally taken by 2 January 2004.

2003 No. []

EDUCATION, ENGLAND

The Education (Maintained Special Schools) (England) (Amendment) Regulations 2003

<i>Made</i> - - - -	[]
<i>Laid before Parliament</i>	[]
<i>Coming into force</i> - -	[]

In exercise of the powers conferred on the Secretary of State by sections 31(1), (2) and (3), 33(4), 138(7) of, and paragraph 5 of Schedule 5, paragraphs 2, 3, 4 and 5 of Schedule 6 and paragraphs 2, 3 and 7 of Schedule 7 to, the School Standards and Framework Act 1998(a) and section 74(2) of the Education Act 2002 (b), the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Education (Maintained Special Schools) (England) (Amendment) Regulations 2003 and shall come into force on [date] 2003.

(2) These Regulations apply in relation to local education authorities and schools maintained by (or, in the case of new schools, proposed to be maintained by) local education authorities in England.

(3) In these Regulations “the Principal Regulations” means the Education (Maintained Special Schools) (England) Regulations 1999(c).

Amendment of Principal Regulations

2. The Principal Regulations shall be amended in accordance with regulations 3 to 13 below.

3. In regulation 2(1) the definition of “the Transition Regulations” shall be omitted.

4. In regulation 6(2), after sub-paragraph (c) there shall be inserted—

‘and

(d) such of the information specified in Part VI of that Schedule as applies to the proposals, where the proposals are to alter the upper age limit of the school so that it ceases to provide sixth form education.’

5. For regulation 7(2)(a) there shall be substituted—

“(a) the Learning and Skills Council for England(a), if the proposals relate to sixth form education;”.

(a) 1998 c.31. Schedules 6 and 7 were amended by Schedule 10 to the Education Act 2002 (c.32).

(b) 2002 c. 32.

(c) S.I. 1999/2212, amended by S.I. 2002/2469.

6. In regulation 8—

- (a) in the sub-heading, after “Objections to” there shall be inserted the words “and comments on”;
- (b) after the words “objections to” (wherever they appear) there shall be inserted the words “or comments on”;
- (c) in paragraph (3) for the words “objection period” (wherever they appear) there shall be substituted the words “representation period”.

7. In regulation 10—

- (a) at the end of paragraph (e) the word “and” shall be omitted;
- (b) after paragraph (f) there shall be inserted—
 - i(g) the formation of any federation (within the meaning of section 24(2) of the Education Act 2002) of which it is intended that a proposed school should form part, or the fulfilling of any other condition relating to the proposed school forming part of a federation;
 - (h) the Secretary of State giving notice under regulation 5(1) of the Education (Foundation Body) (England) Regulations 2000^(b) that a foundation body shall become operative and that the school shall form part of a group of schools for which that foundation body acts;
 - (i) the Secretary of State making a declaration under regulation 22(3) of the Education (Foundation Body) (England) Regulations 2000 that the school shall form part of an existing group of schools for which a foundation body acts; and
 - (j) where the proposals in question depend upon any of the events specified in paragraphs (a) to (i) occurring by a specified date in relation to proposals relating to another school or proposed school, the occurrence of such an event.”.

8. After regulation 11 there shall be inserted the following regulations—

“Limitations on power of committee to refer matters to adjudicator

11A. The school organisation committee may refer any proposals to the adjudicator under paragraph 3(2)(d) of Schedule 6 or paragraph 8(2A) of Schedule 7, or refer any matter to the adjudicator under paragraph 5(6A) of Schedule 6 only if—

- (a) they have voted on the proposals or matter, but
- (b) at least two groups of members (within the meaning of regulation 14(1)) did not vote because they had declared an interest in the proposals or matter in question.

Limitation on power of local education authority to refer proposals to school organisation committee

11B. A local education authority may refer any proposals to the school organisation committee under paragraph 4(4A) of Schedule 6 only where it appears to them that it may be appropriate, if the proposals are approved, for the approval to be expressed (in accordance with paragraph 3(3) of Schedule 6) to take effect only if an event specified in the approval occurs by the date so specified.

Reference to adjudicator of proposals rejected by school organisation committee

11C. An alteration falls within paragraph 3(6C)(b) of Schedule 6 (which provides that where the school organisation committee rejects proposals to make an alteration to a school and the alteration is of a prescribed description the committee shall refer the proposals to

(a) The Learning and Skills Councils were set up under the Learning and Skills Act 2000 (c. 21) and replaced the Further Education Funding Councils by virtue of section 149 and paragraphs 1 and 20 of Schedule 9 to that Act.

(b) S.I. 2000/2872.

the adjudicator if the governing body so requests) if it is an alteration specified in Schedule 1 to these Regulations.”.

9. After regulation 13(3)(c) there shall be inserted the following sub-paragraph—

“(cc) the Learning and Skills Council for England, if the proposals relate to sixth form education;”.

10. Regulation 17 shall be omitted.

11. In regulation 19(1)(b), for the words “regulation 6 of the Education (Special Educational Needs) Regulations” there shall be substituted the words “regulation 7 of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001(a)”.

12. In paragraph 1 of Schedule 1, in the definition of “the appropriate date”, paragraph (i) of sub-paragraph (c) shall be omitted.

13. Schedule 3 is replaced by the following Schedule—

“SCHEDULE 3

Regulation 6

INFORMATION TO BE SENT TO THE SCHOOL ORGANISATION COMMITTEE OR THE SECRETARY OF STATE

PART I

Interpretation

1. In this Schedule,

- (a) “the current school year” means the school year in which the proposals are published; and
- (b) any reference to proposals being approved or rejected (however framed) includes a reference to the local education authority determining to implement or not to implement (as the case may be) the proposals under paragraph 4 of Schedule 6.

PART II

Information to be sent in all cases where proposals are published under section 31

2. The objectives of the proposals.

3. A statement indicating how the proposals would contribute to enhancing the quality of education and how they support the policy for provision for children with special educational needs as set out in the education development plan prepared under section 6 of the Act by the local education authority who maintain the school or who it is proposed should maintain the school.

4. The following information relating to the proposals—

- (a) the objectives which the local education authority intend to set to further the aims of inclusiveness and partnership working;
- (b) the activities which are planned to achieve the objectives specified in sub-paragraph (a); and

(a) S.I. 2001/3455.

- (c) the measures proposed to be taken to ensure that the governing body, teachers, pupils and parents are aware of their role in contributing to inclusiveness and partnership working.
- 5. Evidence of the consultation before the proposals were published including—
 - (a) copies of the consultation documents; and
 - (b) the views and responses from the persons consulted.
- 6. A statement indicating the consequences for the education of pupils with special educational needs in the area if the proposals were rejected.
- 7. A map showing the location of the school or proposed school.
- 8. A list of all—
 - (a) special schools;
 - (b) other schools maintained by a local education authority at which there is provision which is recognised by the local education authority as reserved for children with special educational needs; and
 - (c) facilities and provision made for pupils with low incidence special educational needs,

in the area of the local education authority who maintain or who it is proposed should maintain the school.

9. Information as to—

- (a) the number of pupils at each school referred to in paragraph 8(a); and
- (b) the number of pupils at each school referred to in paragraph 8(b) for whom the provision referred to in that sub-paragraph is made,

in the current year together with a forecast of that number for each of the subsequent 5 school years.

10.—(1) Information as to the numbers of pupils with special educational needs of each type for whom the local education authority maintain a statement of special educational needs under Part IV of the Education Act 1996 in the current school year together with a forecast of such numbers for each of the subsequent 5 school years.

(2) Information as to the numbers of pupils with special educational needs for whom the local education authority does not maintain a statement of special educational needs but for whom special provision is made in respect of their special educational needs by the local education authority from centrally held funds or by delegation of its funds to the schools which these pupils attend together with a forecast of such numbers for each of the subsequent 5 school years.

PART III

Additional information to be sent where the proposals are to establish a new school

11. A forecast of the projected number of pupils at the school by sex and, where appropriate, type of special educational need for which provision is made, for the 4 school years following the current school year.

12. Details of proposed arrangements for the provision of transport to the proposed school.

13. Details of the curriculum to be provided at the proposed school.

14. Details of the proposed staffing including details of the time at which it is expected to appoint the head teacher.

15. The following information relating to the proposed accommodation (including temporary accommodation)—

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the proposed school is to occupy a single or split site;
- (d) how accessible the accommodation will be; and
- (e) details of the general and specialist accommodation (both teaching and non-teaching).

16. Details of any proposed arrangements for links between the proposed school and any school maintained by a local education authority which is not a special school and, where appropriate, links between the proposed school and institutions in the further education sector.

17. Details of the capital costs of establishment of the proposed school and how it is intended to fund implementation of the proposals together with a statement as to whether, as a result of the proposals, premises used for the purposes of another school will no longer be required and, if so, a statement as to whether those premises are to be sold and, if so, the estimated sale proceeds.

18. An estimate of the recurrent costs for the proposed school and any savings in expenditure as a result of implementation of the proposals.

19. Where the establishment of the new school involves development for the purpose of the Town and Country Planning Act 1990 a statement as to whether planning permission has been obtained and, if such permission has not been obtained, details of the reasons (if known) why it has not been obtained.

20. Details of the measures taken to assess the impact of the school proposed regionally.

21. Details of any consultation undertaken in connection with the proposed school with any Strategic Health Authority which acts for any area which includes any part of the area of the local education authority which maintain or which it is proposed should maintain any school which is the subject of the consultation proposals; and any National Health Service Trust which has responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority which maintain or which it is proposed should maintain the proposed school.

PART IV

Additional information to be sent where the proposals are to make a prescribed alteration to a school (other than discontinuance of sixth form education)

22. The following information relating to the school for the current school year, and the preceding 4 school years—

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and each sex; and
- (c) the number of pupils with each type of special educational needs for which provision is made at the school;

and a forecast of those numbers for each of the subsequent five years on the assumption that the proposals are approved.

23. Where the number of pupils, or the number of pupils with a particular type of special educational need, is lower in the current school year than in the fourth school year preceding the current school year, an explanation of the reason for change in numbers.

24. A statement as to whether the school has been inspected under section 10 of the School Inspections Act 1996 during the period starting three years before the date of publication of the proposals.

25. Details of any proposed arrangements for links between the school and any school maintained by a local education authority which is not a special school and, where appropriate, links between the school and any institution in the further education sector.

26. The following information relating to the accommodation at the school and to the proposed accommodation (if different) if the proposals are approved:

- (a) the location of the accommodation;
- (b) a site plan of the accommodation;
- (c) whether the school occupies a single or a split site;
- (d) how accessible the accommodation will be; and
- (e) details of the general and specialist accommodation (both teaching and non-teaching).

27. Details of—

- (a) the staffing of the school and the pupil/staff ratio; and
- (b) the proposed staffing at the school and pupil/staff ratio if the proposals are approved, including, if known, details of the qualifications and experience of the staff relevant to the expected pupil population at the school if the proposals are approved.

28. Details of any consultation undertaken in connection with the proposals with any Strategic Health Authority which acts for any area which includes any part of the area or the local education authority which maintain or which it is proposed should maintain the school; and any National Health Service Trust which has responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority which maintain or which it is proposed should maintain the proposed school.

29. Details of the capital costs of implementation of the proposals and how it is intended to fund implementation of the proposals together with a statement as to whether, as a result of the proposals, any premises used for the purposes of the school or any other school will no longer be required and, if so, a statement as to whether those premises are to be sold and, if so, the estimated sale proceeds.

30. Details of any recurrent costs following implementation of the proposals and any savings in expenditure as a result of implementation of the proposals.

31. Where the proposals are to alter the upper or lower age limits of the school or to make a change in the type of special educational needs for which the school is organised to make provision, details of any changes in the curriculum which would result if the proposals are approved.

32. Where the proposals (if approved) would result in additional pupils attending the school—

- (a) details of any transitional arrangements proposed in connection with the education of such pupils; and
- (b) details of the proposed arrangements for the provision of transport for such pupils.

33. Where the proposals (if approved) would result in the school being organised to make provision for pupils with a different type of special educational needs with the result that the provision to be made for pupils currently at the school would be inappropriate for their needs—

- (a) the number of pupils for whom provision would be inappropriate;

- (b) the names of all local education authorities who have made arrangements for the placement of such pupils at the school;
- (c) details of alternative provision to be made for such pupils who would otherwise have attended the school (including alternative provision to be made by local education authorities other than the local education authority who maintain the school);
- (d) details of any transitional arrangements proposed in connection with the education of such pupils;
- (e) details of any proposed transport arrangements to any school which such pupils may attend pursuant to any provision made as described in sub-paragraph (c); and
- (f) details of the curriculum at any school which such pupils may attend pursuant to any provision made as described in sub-paragraph (c).

34. Where the proposals are to make a change in the type of special educational needs for which the school is organised to make provision, evidence of how provision is to be made for the projected pupil population in the local education authority's area with the type of special educational needs for which the school is currently organised to make provision and with the type of special educational needs for which it is proposed that the school should make provision.

35. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of one sex only becomes an establishment which admits pupils of both sexes—

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) details of any transitional period which the body making the proposals wishes specified in a transitional exemption order (within the meaning of section 27 of the Sex Discrimination Act 1975).

36. Where the proposals are to make an alteration to a school to provide that a school which was an establishment which admitted pupils of both sexes becomes an establishment which admits pupils of one sex only—

- (a) details of the likely effect which the alteration will have on the balance of the provision of education for boys and girls in the area; and
- (b) where the proposals relate to a school which makes provision for children with emotional and behavioural difficulties and are that the school should become an establishment which only admits boys, details of alternative provision to be made for girls.

37. Where the proposals are for the introduction or ending of boarding provision or the alteration of boarding provision such as is mentioned in paragraph 5(2) of Schedule 1 to these Regulations—

- (a) the current number of pupils for whom boarding provisions can be made;
- (b) the number of pupils for whom it is intended that boarding provision would be made if the proposals are approved;
- (c) a description of the boarding provision at the school or, where the proposals are to introduce boarding provision, the proposed boarding provision;
- (d) where the proposals are to end or reduce boarding provision, a statement as to the use to which the former boarding accommodation will be put if proposals are approved; and
- (e) except where the proposals are to end boarding provision, details of arrangements for safeguarding the welfare of children at the school.

38. Where the proposals are to transfer a school to a new site, the map such as is referred to in paragraph 7 above showing the location of the school at the proposed site (as well as the existing site).

39. Where the implementation of the proposals will involve development for the purpose of the Town and Country Planning Act 1990, a statement as to whether planning permission has been obtained and, if such permission has not been obtained, details of the reasons (if known) why it has not been obtained.

PART V

Additional information to be sent where the proposals are to discontinue a school

40. The following information relating to the school for the current year and the preceding 4 school years—

- (a) the number of pupils at the school;
- (b) the number of pupils of each age group and sex; and
- (c) the number of pupils with each type of special educational needs for which provision is made at the school.

41. Where the number of pupils, or the number of pupils with a particular type of special educational need, is lower in the current school year than in the 4th school year preceding the current school year, an explanation of the reason for the change in numbers.

42. The names of all local education authorities who have made arrangements for the placement of children at the school and the number of children placed at the school by each such local education authority.

43. Details of alternative provision to be made for pupils who attend the school (including alternative provision to be made by local education authorities other than the local education authority who maintain the school).

44. Details of the measures taken to assess the impact of the discontinuance of the school regionally.

45. Details of any arrangements for staff employed at the school to transfer to other schools.

46. The distance and travelling times from the school to the schools to which it is proposed that the pupils are to transfer.

47. The arrangements proposed for transport to the schools to which it is proposed that the pupils are to transfer.

48. Details of the curriculum at each of the schools to which it is proposed that the pupils are to transfer.

49. Details of any transitional arrangements in connection with the transfer of pupils to other schools.

50. Details of any savings in expenditure as a result of the implementation of the proposals and a statement as to whether the premises used for the purposes of the school will be sold and, if so, the estimated proceeds of sale.

51. Details of the measures taken to assess the impact of the discontinuance of the school regionally.

52. Details of any consultation undertaken in connection with the proposals with any Strategic Health Authority which acts for any area which includes any part of the area of the local education authority which maintain the school or schools to which it is proposed

that the pupils are to transfer; and any National Health Service Trust which has responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority which maintain the school or schools to which it is proposed that the pupils are to transfer.

PART VI

Additional Information to be sent where the proposals are to alter the upper age limit of the school so that it ceases to provide sixth form education

53. The following information relating to the provision of sixth form education at the school for the current year and the preceding 4 school years—

- (a) the number of pupils over compulsory school age in each year group and sex; and
- (b) the number of pupils over compulsory school age in each year group with each type of special educational needs for which provision is made.

54. Where the number of pupils over compulsory school age, or the number of pupils over compulsory school age with a particular type of special educational need, is lower in the current school year than in the fourth school year preceding the current school year, an explanation of the reason for the change in numbers.

55. The names of all local education authorities which have made arrangements for the placement of pupils over compulsory school age at the school and the number of such pupils placed at the school by each such local education authority.

56. Details of alternative provision to be made for pupils over compulsory school age at the school (including alternative provision to be made by local education authorities other than the local education authority which maintain the school and institutions within the further education sector) and any transitional arrangements which may apply.

57. Details of any arrangements for staff employed at the school to transfer to other schools or institutions within the further education sector.

58. Details of the distance measured by the nearest available route and travelling times from the school to the schools or institutions within the further education sector named in accordance with paragraph 56 together with details as to the availability of public transport to the schools or institutions so named and the arrangements proposed for transport thereto.

59. Details of the curriculum at each of the schools or institutions within the further education sector to which it is proposed that the pupils are to transfer.

60. If the pupils at the school which is the subject of the proposals have in the two academic years prior to the proposal being made undertaken courses leading to accreditation by bodies moderating national examinations, details of the examination passes achieved by the school which is the subject of the proposals and, where they are within daily travelling distance of this school, details of the examination passes achieved at other special schools, mainstream schools and institutions within the further education sector.

61. An assessment of the quality of each of the schools or institutions referred to in paragraph 59.

62. Details of any consultation undertaken in connection with the proposals with any Strategic Health Authority which acts for any area which includes any part of the area of the local education authority which maintain or which it is proposed should maintain any school the subject of the consultative proposals; and any National Health Service Trust which has responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority which maintains or which it is proposed should maintain any school which is the subject of the consultative proposals.

63. Details of the measures taken to assess the impact of the discontinuance of the provision regionally.

64. Details of any savings in expenditure as a result of the implementation of the proposals.”

2003

Minister of State
Department for Education and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Maintained Special Schools) (England) Regulations 1999.

The principal changes are:-

- (a) new provision is made (regulation 8) imposing limitations on the school organisation committee’s new power to refer matters to the adjudicator and on the local education authority’s powers to refer matters to the school organisation committee;
- (b) new provision is made (regulation 8) covering a reference to the adjudicator if proposals to make an alteration to a school are rejected under paragraph 3(6C)(b) of Schedule 6 to the School Standards and Framework Act 1998 inserted by Schedule 10 to the Education Act 2002;
- (c) Schedule 3 to the principal regulations is replaced (regulation 13). Changes require any body publishing proposals under section 31 of the School Standards and Framework Act 1998 to include certain information in relation to the proposals relating to inclusiveness and partnership working. A new Part VI has been inserted which sets out the information to be provided where a school discontinues its sixth form provision.

The Regulations also make other minor and consequential amendments.

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