STATUTORY INSTRUMENTS

1999 No. 1287

EDUCATION, ENGLAND AND WALES

The Education (Head Teachers) Regulations 1999

Made - - - -	*1st May 1999*
Laid before Parliament	*6th May 1999*
Coming into force	*26th May 1999*

In exercise of the powers conferred on the Secretary of State by sections 138(7) and 144 of, and paragraph 1 of Schedule 10, paragraphs 1, 2 and 3 of Schedule 11 and paragraph 1(5) and 6 of Schedule 12 to, the School Standards and Framework Act 1998**(a)**, and all other enabling powers, the Secretary of State for Education and Employment, as regards England, and the Secretary of State for Wales, as regards Wales, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Head Teachers) Regulations 1999 and shall come into force on 26th May 1999.

Interpretation

2.—(1) In these Regulations–

"the 1996 Act" means the Education Act 1996**(b)**;

"the 1998 Act" means the School Standards and Framework Act 1998;

"aided school", "controlled school", "county school", "maintained special school", "special agreement school" and "voluntary school" have the same meanings as in the 1996 Act;

"articles of government" has the same meaning as in the 1996 Act;

"the First Transitional Regulations" means the Education (School Government) (Transition to New Framework) Regulations 1998**(c)**;

"relevant date" means the date on or after 1st September 1999 on which the first of the head teachers of a relevant school to cease to be a head teacher of the school ceases to be such a head teacher;

"relevant school" means–

(a) in relation to any time before 1st September 1999, a county, voluntary or maintained special school;

(b) in relation to any time on or after 1st September 1999, a maintained school which immediately before that date was a county, voluntary or maintained special school,

in either case organised in two or more separate departments each with a head teacher;

"the Second Transitional Regulations" means the Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999**(d)**; and

"section 132" means section 132 of the 1996 Act.

(a) 1998 c. 31; for the meaning of "regulations" *see* section 142(1).
(b) 1996 c. 56.
(c) S.I. 1998/2763; amended by S.I. 1999/362.
(d) S.I. 1999/362.

(2) Expressions used in these Regulations set out in the first column of the table below have the meaning given by, or (as the case may be) are to be interpreted in accordance with, the provisions referred to in the second column of that table–

"instrument of government"	section 37(1) of the 1998 Act;
"maintained school"	section 20(7) of the 1998 Act.

Transitional provision in relation to schools organised in accordance with section 132

3.—(1) Notwithstanding the provisions of section 132–

(a) no person shall be appointed to the post of head teacher of a department of a county, voluntary or maintained special school; and

(b) no county, voluntary or maintained special school shall be so reorganised that it consists of two or more separate departments, each with a head teacher.

(2) Where in the period commencing on 26th May 1999 and ending immediately before 1st September 1999 a post of head teacher of a department of a relevant school is or becomes vacant–

(a) section 132 shall cease to have effect in relation to the school;

(b) any post of head teacher of a department of the school shall cease to exist; and

(c) there shall be a single post of head teacher of the school.

4.—(1) This regulation applies where immediately before 1st September 1999 a school is a relevant school.

(2) In the period commencing on 1st September 1999 and ending immediately before the relevant date in relation to such a school–

(a) the school may continue to be organised in two or more separate departments, each with a head teacher;

(b) a person holding the post of head teacher of a department of the school may continue in that post; and

(c) any provision made by or under the 1996 Act or the 1998 Act which confers functions on or in relation to the head teacher of the school shall have effect as if each department were a separate school.

(3) On the relevant date in relation to such a school–

(a) the provisions of paragraph (2) shall cease to have effect in relation to the school;

(b) any post of head teacher of a department of the school shall cease to exist; and

(c) there shall be a single post of head teacher of the school.

Appointment of a single head teacher

5.—(1) This regulation applies where–

(a) a single post of head teacher of a school is created under regulation 3(2) or 4(3); and

(b) immediately before such post was created, one head teacher remained in a post of head teacher of a department of the school.

(2) The governing body of an aided or a voluntary aided school may, after consulting the local education authority, appoint the sole remaining head teacher to the post of head teacher of the school instead of following the appropriate procedure for appointing a head teacher specified in the school's articles of government, the 1996 Act or the 1998 Act (as the case may be).

(3) The local education authority may on the recommendation of the governing body of a county, controlled, special agreement, maintained special, community, voluntary controlled or community special school appoint the sole remaining head teacher to the post of head teacher of the school instead of following the appropriate procedure for appointing a head teacher specified in the 1996 Act or the 1998 Act (as the case may be).

(4) Where a diocesan authority has advisory rights in relation to the appointment of teachers at a voluntary school under the school's articles of government, the Diocesan Boards of Education Measure**(a)** or the 1998 Act, the same rights are exercisable in relation to an appointment under this regulation.

Transitional modifications to school government provisions under the 1998 Act

6.—(1) This regulation applies in relation to any relevant school, until the date when there is a single post of head teacher of the school.

(2) Schedule 9 to the 1998 Act, to the extent that it is at any time in force**(b)**, shall have effect as if–

(a) paragraph 8 provided that, at any time when a head teacher is a governor, he shall be treated for all purposes as being an ex officio governor; and

(b) any other reference to "the head teacher" were a reference to each head teacher of the school.

(3) Subject to paragraphs (4) to (7) below, any reference in the First Transitional Regulations or the Second Transitional Regulations to "the head teacher" or "a head teacher" shall have effect as if it were a reference to each head teacher of the school.

(4) The references in regulation 21(3)(a) of the First Transitional Regulations and regulation 19(3) of the Second Transitional Regulations to "the head teacher of the school" shall have effect as if they were references to any head teacher of the school.

(5) In paragraphs (6) and (7), "pro-forma instrument" means a pro-forma instrument of government for a community, community special, voluntary controlled or voluntary aided school set out in Schedule 2 to the First Transitional Regulations or Schedule 2 to the Second Transitional Regulations.

(6) Each pro-forma instrument shall apply (in accordance with regulation 10 of the First Transitional Regulations**(c)** or regulation 12 or 46 of the Second Transitional Regulations, as the case may be) with the following modifications–

(a) in paragraph 4, for the words–

"the head teacher (except at any time when he has given written notice to the clerk to the governing body of the school that he chooses not to be a governor)",

there shall be substituted–

"(i) if there is more than one post of head teacher of the school, x head teachers (except at any time when one or more head teachers have given written notice to the clerk to the governing body of the school that they choose not to be a governor when the number of head teacher governors shall be reduced accordingly); otherwise

(ii) the head teacher (except at any time when he has given written notice to the clerk to the governing body of the school that he chooses not to be a governor).."; and

(b) for paragraph 5 there shall be substituted–

"**5.** (a) If there is more than one post of head teacher of the school, the total number of governors will be . . . (except at any time when one or more head teachers have given notice as above that they choose not to be a governor when the total number of governors will be reduced accordingly).

(b) If there is a single post of head teacher of the school, the total number of governors will be . . . (except at any time when the head teacher has given notice as above that he chooses not to be a governor, when the total number of governors will be . . .).".

(a) 1991 No. 2.
(b) Schedule 9 to the 1998 Act is currently in force for limited purposes only. *See* section 145(5) of the 1998 Act.
(c) Regulation 10 has been amended by regulation 61 of S.I. 1999/362.

(7) In addition to the modifications referred to in paragraph (6), the pro-forma instruments for voluntary aided schools shall apply subject to the substitution for paragraph 4(a) in those instruments of the following–

"(a) (i) if there is more than one post of head teacher of the school, x foundation governors (except at any time when one or more head teachers have given notice that they choose not to be a governor when the number of foundation governors will be reduced accordingly); otherwise

(ii) x foundation governors (except at any time when the head teacher has given notice that he chooses not to be a governor, when the number of foundation governors will be x);".

Estelle Morris
Minister of State,
1st May 1999 Department for Education and Employment

Peter Hain
Parliamentary Under Secretary of State,
30th April 1999 Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provision in relation to the prospective repeal of Part II of the Education Act 1996. In relation to county, voluntary and maintained special schools organised in two or more departments, each with a head teacher, section 132 of that Act provides that provisions of the Act conferring functions on the head teacher have effect as if each department was a separate school. It is proposed to commence the repeal on 1st September 1999 (the appointed day for the purposes of section 20(7) of the School Standards and Framework Act 1998) when the schools to which section 132 relates will enter new categories.

From 26th May 1999 no appointment may be made to fill the post of head teacher of a department of a school. At any time from 26th May 1999, when a post of head teacher of a department of a school becomes vacant, the school is to be re-organised so that there is a single post of head teacher. Regulation 5 provides that in the event of such a re-organisation, if there is a single remaining head teacher of a department in post, the body which makes teacher appointments (the local education authority or the governing body) have the option of appointing that head teacher to the post of head teacher of the school instead of following the usual statutory appointment procedures.

Until a post of head teacher of a department of a school becomes vacant (whether before or after 1st September 1999), a school is not obliged to re-organise. Section 132 of the Education Act 1996, and on and after 1st September 1999 regulation 4(1) and (2) which makes provision similar to section 132, will apply to such a school until a post of head teacher of a department becomes vacant.

Schedule 9 to the School Standards and Framework Act 1998, the Education (School Government) (Transition to New Framework) Regulations 1998 and the Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1999 envisage that there will only be one head teacher post at each maintained school. In consequence of the transitional provisions in these Regulations, regulation 6 modifies those provisions to provide that, while there is more than one post of head teacher at a school, each head teacher will be a governor unless he chooses not to be.

In particular, the prescribed pro-formas for new instruments of government are modified for schools which have more than one post of head teacher. The modified pro-formas are such that amendments to the instrument of government will not be required when there ceases to be more than one head teacher post at the school.

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