



Education Reform Act 1988

1988 CHAPTER 40

PART I

SCHOOLS

CHAPTER IV

GRANT-MAINTAINED SCHOOLS

Government, powers and conduct

53 Constitution of the governing body of a grant-maintained school

- (1) For every grant-maintained school there shall be an instrument providing for the constitution of the governing body incorporated under this Chapter for the purpose of conducting the school (to be known as the instrument of government).
- (2) The instrument of government shall be made by order of the Secretary of State.
- (3) The instrument of government shall comply with any trust deed relating to the school.
- (4) The instrument of government for a grant-maintained school shall provide for the governing body to include—
 - (a) five parent governors;
 - (b) at least one but not more than two teacher governors;
 - (c) the person who is for the time being the head teacher (as a governor *ex officio*); and
 - (d) either—
 - (i) in the case of a school which was a county school immediately before it became a grant-maintained school, first governors; or
 - (ii) in the case of a school which was a voluntary school immediately before it became a grant-maintained school, foundation governors.

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- (5) The instrument of government for a grant-maintained school shall provide—
- (a) for a number of first or (as the case may require) foundation governors which will secure that they outnumber the other governors; and
 - (b) for at least two of those governors to be (on the date or dates on which they respectively take office) parents of a registered pupil at the school.
- (6) The instrument of government for such a school shall provide—
- (a) for the Secretary of State to have power to appoint not more than two additional governors if it appears to him that the governing body of the school are not adequately carrying out their responsibilities with respect to the conduct or management of the school; and
 - (b) for the appropriate appointing authority to have power, during any period when any additional governors appointed by the Secretary of State by virtue of paragraph (a) above are in office, to appoint a number of additional first or foundation governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.
- In paragraph (b) above “the appropriate appointing authority” means, in relation to first governors, the governing body and, in relation to foundation governors, the person entitled to appoint the foundation governors on the governing body or, if more than one person is so entitled, the persons so entitled acting jointly.
- (7) The instrument of government for such a school which is required to have first governors shall provide for the Secretary of State to have power to make such provision as he thinks fit for filling vacancies for such governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
- (8) Subject to section 64 of this Act (which provides for the constitution of the governing body of such a school on initial incorporation of that body under this Chapter), in this Chapter—
- “first governor”, in relation to any such school, means a person of the kind mentioned in subsection (9) below who is appointed to be a member of the governing body of the school by the governing body;
- “foundation governor”, in relation to any such school, means a person appointed otherwise than by a local education authority for the purpose of securing, so far as practicable, that the established character of the school at the time when it becomes a grant-maintained school is preserved and developed and, in particular, that the school is conducted in accordance with the provisions of any trust deed relating to it;
- “parent governor”, in relation to any such school, means (subject to section 54 of this Act) a person who is elected as a member of the governing body of the school by parents of registered pupils at the school and who is himself such a parent at the time when he is elected; and
- “teacher governor”, in relation to any such school, means a person who is elected as a member of the governing body of the school by teachers at the school and who is himself such a teacher at the time when he is elected.
- (9) The kind of person who may be appointed as a first governor of a grant-maintained school is a person appearing to the persons appointing him to be a member of the local community who is committed to the good government and continuing viability of the school.

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- (10) In the case of a school which is required to have first governors, the instrument of government shall provide for it to be the duty of the governing body, in appointing such governors, to secure that those governors include persons appearing to them to be members of the local business community.
- (11) The governing body of a grant-maintained school as first constituted in accordance with section 64 of this Act is referred to below in this Chapter, in relation to the school, as the initial governing body in any case where different provision is made in relation to the governing body as first so constituted from the provision made in relation to the governing body as constituted in accordance with this section.
- (12) Accordingly, except where reference is specifically made to the initial governing body or to the governing body as constituted in accordance with this section, references in this Chapter to the governing body of such a school are references to the governing body whether constituted in accordance with that section or this section.

54 Appointment of parent governors by the governing body

- (1) The instrument of government for every grant-maintained school shall provide for the required number of parent governors to be made up by parent governors appointed by the other members of the governing body if—
 - (a) one or more vacancies for parent governors are required to be filled by election; and
 - (b) the number of parents standing for election as parent governors is less than the number of vacancies.
- (2) The instrument of government for every such school shall provide for it to be the duty of governors, in appointing any parent governor under any provision made by virtue of this section—
 - (a) to appoint a person who is the parent of a registered pupil at the school, where it is reasonably practicable to do so; and
 - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.

55 Proceedings of the governing body and allowances to members

- (1) The proceedings of the governing body of a grant-maintained school shall not be invalidated by—
 - (a) any vacancy among their number; or
 - (b) any defect in the election or appointment of any governor.
- (2) Subject to the provisions of this Chapter and any instrument made under this Chapter, the governing body of a grant-maintained school may regulate their own procedure.
- (3) The instrument of government for any grant-maintained school may make provision as to the meetings and proceedings of the governing body.
- (4) The provision that may be made by virtue of subsection (3) above includes in particular provision—
 - (a) as to the election of a chairman and vice-chairman;
 - (b) as to the establishment, constitution, meetings and proceedings of committees;

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- (c) for the delegation of functions of the governing body in such circumstances as may be specified in the instrument of government to committees established by that body or to any member of that body;
- (d) as to the procedure (including any quorum) when business is transacted by governors of a particular category; and
- (e) as to the procedure for the election of members of the governing body and for the determination of any questions arising in connection with, or matters relating to, any such elections;

and the provision mentioned in paragraph (b) above may provide for a committee to include persons who are not members of the governing body.

- (5) The governing body of a grant-maintained school shall have power to pay to their members such travelling, subsistence or other allowances as may be determined in accordance with a scheme made by the governing body and approved by the Secretary of State.
- (6) Any scheme made under subsection (5) above may be varied or revoked by a subsequent scheme so made.
- (7) The application of the seal of the governing body of a grant-maintained school shall be authenticated by the signature of the chairman of the governing body or of some other member authorised either generally or specially by the governing body to act for that purpose together with that of any other member.
- (8) Every document purporting to be an instrument made or issued by or on behalf of the governing body of any such school and to be duly executed under the seal of the governing body, or to be signed or executed by a person authorised by the governing body to act in that behalf shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

56 Governors' tenure of office

- (1) The instrument of government for every grant-maintained school shall provide for each governor of an elected category to hold office for a term of four years.
- (2) Subject to subsection (3) below, the instrument of government for every such school which is required to have foundation governors—
 - (a) may provide for any foundation governorship to be held *ex officio* by the holder of an office named in the instrument; and
 - (b) shall name the person or persons (if any) who are entitled to appoint any foundation governor.
- (3) An additional foundation governor appointed by virtue of provision made in the instrument of government in accordance with section 53(6)(b) of this Act may not be appointed to hold office *ex officio*.
- (4) Subject to subsection (5) below, the instrument of government for every grant-maintained school shall provide for each first governor or (as the case may be) for each foundation governor other than one who is a governor *ex officio* to hold office for such term (not being less than five nor more than seven years) as may be specified in the instrument of government.
- (5) The term of office of any additional first or foundation governor appointed by virtue of provision made in the instrument of government in accordance with section 53(6)

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- (b) of this Act shall be such term (not being more than five years) as may be specified in the terms of that governor's appointment.
- (6) The preceding provisions of this section shall not be taken to prevent a governor from being elected or appointed for a further term, or from being disqualified, by virtue of subsection (8) below or any provision made by virtue of subsection (9) below, for continuing to hold office.
- (7) Any governor of a grant-maintained school may at any time resign his office.
- (8) A person who is a member of the teaching or other staff at a grant-maintained school which is required to have first governors shall be disqualified for holding office as such a governor on the governing body of that school.
- (9) The instrument of government for a grant-maintained school may make provision as to the circumstances in which persons are to be disqualified for holding office as governors of the school.
- (10) Any foundation governor of a grant-maintained school may be removed from office by the person or persons who appointed him.

57 Powers of the governing body

- (1) The governing body of a grant-maintained school shall have power to conduct a school of the same description, subject to any changes authorised under section 89 or 91 of this Act, as the school immediately before it became a grant-maintained school.
- (2) The school conducted by the governing body of a grant-maintained school shall be regarded for the purposes of subsection (1) above as remaining of the same description as the school immediately before it became a grant-maintained school if no changes are made in the character or premises of the school which require to be authorised under either of those sections.
- (3) Subject to subsection (4) below and to any provision made by the instrument or articles of government of the school, the governing body of such a school shall have power to do anything which appears to them to be necessary or expedient for the purpose of or in connection with the conduct of the school as for the time being constituted, including in particular power—
- (a) to assume the conduct as from the incorporation date in relation to the school of the school as constituted immediately before that date, and for that purpose to receive any property, rights and liabilities transferred to the governing body under section 74 of this Act;
 - (b) to acquire and dispose of land and other property;
 - (c) to enter into contracts, including in particular contracts for the employment of teachers and other staff;
 - (d) to invest any sums not immediately required for the purposes of meeting the expenses of conducting the school or any liability transferred to the governing body under section 74 of this Act; and
 - (e) to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any such purposes.
- (4) Subsection (3) above does not confer power to borrow money; and the power under paragraph (b) of that subsection to dispose of land—

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- (a) does not include power to grant any mortgage, charge or other security in respect of any land; and
 - (b) may only be exercised with the written consent of the Secretary of State.
- (5) Without prejudice to subsection (3) above, but subject to any provision made by the instrument or articles of government of the school, the governing body of a grant-maintained school shall also have power to provide education at the school which is neither primary nor secondary education, provided that they do so as agents for a local education authority under arrangements made with the authority for the purpose.

58 Articles of government

- (1) For every grant-maintained school there shall be an instrument in accordance with which the school is to be conducted (to be known as the articles of government).
- (2) The articles of government shall be made by order of the Secretary of State.
- (3) The articles of government shall comply with any trust deed relating to the school.
- (4) The articles of government for a grant-maintained school may include provision as to the establishment by the governing body of committees or other bodies of persons for the purpose of or in connection with the performance in relation to the school of such functions as may be determined by or under the articles.
- (5) The articles of government for a grant-maintained school shall include in particular provision—
 - (a) with respect to the functions to be exercised in relation to the school by—
 - (i) the Secretary of State;
 - (ii) the governing body;
 - (iii) any committee or other body established in accordance with any provision made by virtue of subsection (4) above; and
 - (iv) any other persons specified in or determined under the articles;
 and the delegation of such functions by those on whom by or under the articles they are imposed or conferred;
 - (b) with respect to arrangements for the admission of pupils to the school and the policy to be followed in deciding admissions;
 - (c) for securing the discharge by the governing body and the head teacher of duties imposed on them under Chapter I of this Part;
 - (d) with respect to arrangements for appeals, in such circumstances as may be provided by the articles, to an appeal committee constituted in accordance with the instrument of government against any decision or action taken by the governing body, or by any persons authorised under the articles to take any decision or action of the kind in question, in relation to—
 - (i) admissions of pupils to the school; or
 - (ii) the permanent exclusion of any pupil from the school;
 and for enabling the governing body to make joint arrangements for that purpose with the governing body of one or more other grant-maintained schools;
 - (e) with respect to arrangements for the consideration and disposal of complaints relating to any matter concerning the curriculum followed within the school including, in particular, the discharge by the governing body of duties imposed on them under Chapter I of this Part;

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- (f) requiring the governing body to publish, for each school year, particulars of—
 - (i) the arrangements for the admission of pupils to the school; and
 - (ii) the procedures applicable under the articles and any further arrangements made by them in respect of appeals by parents against any such decision or action as is mentioned in paragraph (d) above in relation to the admission of pupils to the school;
- (g) with respect to disciplinary rules and procedures applicable to members of the staff of the school and procedures for affording to them opportunities for seeking redress of any grievances relating to their employment;
- (h) with respect to arrangements—
 - (i) for affording to any member of the staff an opportunity of making representations with respect to any proposal to dismiss him by the governing body or any persons authorised under the articles to dismiss him, including (if he so wishes) oral representations to such person or persons as may be appointed for the purpose;
 - (ii) for requiring the governing body or any such persons to have regard to any representations made by him before taking any decision to dismiss him; and
 - (iii) for affording to any member of staff whom it has been decided to dismiss an opportunity of appealing against that decision before any action is taken to implement it;
- (i) requiring the governing body, when considering the content of the secular curriculum for the school, to have regard to any representations with regard to that curriculum—
 - (i) which are made to them by any persons connected with the community served by the school; or
 - (ii) which are made to them by the chief officer of police and are connected with his responsibilities;
- (j) requiring the governing body—
 - (i) to prepare, once in every school year, a report in such form, and containing such information, as may be required by the articles; and
 - (ii) to take such steps as are reasonably practicable to secure that the parents of all registered pupils at the school and all persons employed at the school are given (free of charge) a copy of the report and that copies of the report are available for inspection (at all reasonable times and free of charge) at the school;
- (k) requiring the governing body, subject to any exceptions provided for in the articles, to hold a meeting once in every school year which is open to—
 - (i) all parents of registered pupils at the school; and
 - (ii) such other persons as the governing body may invite; and
- (l) with respect to—
 - (i) the procedure to be followed and the matters to be considered at any such meeting and the determination of any questions arising in connection with any such meeting; and
 - (ii) the taking by the governing body or any other persons of such action as may be required by the articles for the purposes of or in connection with the meeting or any resolutions passed at the meeting.

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59 Instrument and articles of government: procedure

- (1) The instrument and articles of government for a grant-maintained school may be varied or revoked by order of the Secretary of State.
- (2) Before making, varying or revoking any instrument or articles of government for such a school, the Secretary of State shall consult the governing body of the school.