

**1999 No. 2242 (W.2)**

**EDUCATION, WALES**

**The Education (School Government) (Wales)  
Regulations 1999**

<i>Made</i>	- - - -	<i>5th August 1999</i>
<i>Laid before Parliament</i>		<i>11th August 1999</i>
<i>Coming into force</i>		
<i>All regulations except regulations 22(1) and 51(3)</i>	- -	<i>1st September 1999</i>
<i>Regulations 22(1) and 51(3)</i>	- -	<i>1st April 2000</i>

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In exercise of the powers conferred on the Secretary of State by sections 44, 138(7) and (8), 144 of, paragraphs 4, 5, 15(1) and (2), 16 and 17 of Schedule 9, paragraph 1 of Schedule 10, paragraphs 1 to 5 and 8 of Schedule 11, and paragraph 5 of Schedule 12 to, the School Standards and Framework Act 1998(a) and all other enabling powers and (except in the case of powers conferred by section 144 of the said Act) transferred to the National Assembly for Wales(b) by the National Assembly for Wales (Transfer of Functions Order) 1999(c), the Secretary of State for Wales in exercise of the power conferred

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(a) 1998 c.31; for the meaning of “prescribed” and “regulations” see section 142(1).

(b) The National Assembly for Wales was established by section 1 of the Government of Wales Act 1998 (c.38).

(c) S.I. 1999/672.

by section 144 of the said Act and the National Assembly for Wales in exercise of the other powers referred to hereby make the following Regulations:

## PART I

### INTRODUCTION

#### **Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (School Government) (Wales) Regulations 1999.

(2) These Regulations shall come into force on 1st September 1999, except for regulations 22(1) and 51(3) which shall come into force on 1st April 2000.

(3) These Regulations apply in relation to maintained schools and new schools in Wales.

#### **Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1996 Act” means the Education Act 1996**(a)**;

“the 1998 Act” means the School Standards and Framework Act 1998;

“the Assembly” means the National Assembly for Wales;

“additional co-opted governor” means a co-opted governor required by virtue of paragraph 15 of Schedule 9 to the 1998 Act;

“employee of the local education authority” means a person employed by the local education authority in connection with their functions as a local education authority;

“employed to work” means employed under a contract of employment or a contract for services;

“the First Transitional Regulations” means the Education (School Government) (Transition to New Framework) Regulations 1998**(b)**;

“the head teacher”, if there is more than one head teacher of the school in accordance with the Education (Head Teachers) Regulations 1999**(c)**, means any head teacher of the school;

“maintained school” means a community, community special, voluntary, foundation or foundation special school;

“new school” means a maintained school or proposed such school conducted by a temporary governing body constituted under section 44 of the 1998 Act or a transitional governing body treated as so constituted by virtue of regulation 13(5) of the Second Transitional Regulations, or a temporary governing body treated as so constituted by virtue of regulation 13 of the School Organisation Regulations;

“School Organisation Regulations” means the Education (Transition to New Framework) (School Organisation Proposals) Regulations 1999**(d)**;

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

“selection panel” means a selection panel for the appointment of head teachers or deputy head teachers constituted under paragraph 6 of Schedule 16 or paragraph 7 of Schedule 17 to the 1998 Act.

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**(a)** 1996 c.56.

**(b)** S.I. 1998/2763.

**(c)** S.I. 1999/1287.

**(d)** S.I. 1999/704.

**(e)** S.I. 1999/362.

(2) Except where the context otherwise requires, the 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:

“appropriate diocesan authority” (in relation to a Church in Wales or Roman Catholic Church school)	section 142(1) of the 1998 Act;
“Education Action forum”	section 11(2)(a) of the 1998 Act;
“education action zone”	section 10(1)(a) of the 1998 Act;
“have a delegated budget”	section 49(7) of the 1998 Act;
“instrument of government”	section 37(1) of the 1998 Act;
“representative governor”	paragraph 10 of Schedule 9 to the 1998 Act;
“school year”	section 579(1) of the 1996 Act(b);
“temporary governing body” and “temporary governors”	section 44 of the 1998 Act and regulation 13(5) of the Second Transitional Regulations and regulation 13 of the School Organisation Regulations.

- (3) Unless the context otherwise requires, any reference in these Regulations to—
- a numbered Part, regulation or Schedule is a reference to the Part, regulation or Schedule in these Regulations so numbered;
  - a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which the reference appears; and
  - a numbered sub-paragraph is a reference to the sub-paragraph so numbered in the paragraph in which the reference appears.

#### **Interpretation of “governing body”**

3. Unless the context otherwise requires, any reference in these Regulations to the governing body is a reference to the governing body or temporary governing body (however constituted(c) of any school or (as the case may be) new school to which the provision applies, and any reference to a governor is a reference to a member of such a governing body.

## **PART II**

### **INSTRUMENTS OF GOVERNMENT AND GOVERNING BODY COMPOSITION**

#### **Application**

4. Regulations 6 to 13 apply to any maintained school conducted by an incorporated governing body constituted under an instrument of government (but not including a maintained school with a transitional governing body partly constituted under an instrument in accordance with regulation 18(2) of the First Transitional Regulations)(d).

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- (a) Sections 10–13 of the 1998 Act will not apply in relation to Wales unless an Order to that effect has been made by the Assembly *see* section 10(8) of that Act. No such Order has yet been made.
- (b) The definition of “school year” is inserted by paragraph 43 of Schedule 7 to the Education Act 1997 (c.44).
- (c) *See* for the purposes of the composition of governing bodies on transition to the new schools framework, regulations 18 and 19 of the First Transitional Regulations, regulations 13 and 49 of the Second Transitional Regulations and regulation 13 of the School Organisation Regulations.
- (d) This Part should be read together with Schedules 9 and 12 to the 1998 Act. The constitution or reconstitution of the governing body under the first instrument of government made on transition for the new schools framework is dealt with in the First Transitional Regulations, or the Second Transitional Regulations.

### **Copies of instruments of government**

5.—(1) The local education authority which maintains or will maintain a school or a new school for which an instrument of government has been made shall secure that the persons set out in paragraph (2) are provided (free of charge) with—

- (a) a copy of the school's instrument of government; and
- (b) where any variation is made to the school's instrument of government—
  - (i) a copy of the order varying the instrument; and
  - (ii) a consolidated version of the instrument of government incorporating all variations made by order of the local education authority (other than any variations which have ceased to have effect).

(2) In relation to any school to which paragraph (1) applies, the persons who are to be provided with the information referred to in paragraph (1)(a) and (b) are—

- (i) every member of the governing body of the school;
- (ii) every member of the temporary governing body of the school;
- (iii) any trustees under a trust deed relating to the school; and
- (iv) in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority or, in the case of a new school which has not opened, the diocesan authority which will be the appropriate diocesan authority when the school opens.

### **Additional co-opted governors**

6.—(1) Schedule 1 makes provision for the number of additional co-opted governors which may be required by the instrument of government for a maintained school by virtue of paragraph 15(1) and (2) of Schedule 9 to the 1998 Act, for the circumstances in which provision for such governors is authorised to be made, and for the categories of person from whom or from amongst whose members nominations for such appointments are to be sought.

(2) Subject to paragraph (3), if the governing body make or revoke a determination under paragraph 15(1) of Schedule 9 to the 1998 Act, the instrument of government shall be varied at the instance of the governing body in consequence<sup>(a)</sup>.

(3) Paragraph (2) does not apply where the governing body make or revoke a determination under paragraph 15(1) of Schedule 9 to the 1998 Act in anticipation of the replacement of the instrument of government on a change of category pursuant to regulations under Schedule 8 to the 1998 Act.

### **Representative governors**

7.—(1) If there is any change in the body or bodies entitled to appoint a representative governor at a community special school (or in whether the school has a representative governor) by virtue of paragraph 10 of Schedule 9 to the 1998 Act, the instrument of government shall be varied at the instance of the governing body in consequence.

(2) Paragraph (1) does not apply if the change in question is related to a change of category (as referred to in regulation 6(3)) and the instrument of government is to be replaced.

### **Substitute foundation governors**

8. The instrument of government for a maintained school shall name the person or persons who shall be entitled to appoint a foundation governor to act in the place of an ex officio foundation governor in any case where—

- (a) that ex officio foundation governor is unable or unwilling to act as such; or
- (b) there is a vacancy in the office by virtue of which such a governorship exists.

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<sup>(a)</sup> The procedure for varying the instrument of government is in paragraph 4 of Schedule 12 to the 1998 Act.

### **Appointment of parent, partnership and co-opted governors**

9.—(1) Schedule 2 sets out the circumstances in which parent governors required by the instrument of government shall be appointed by the governing body, and the requirements which must be complied with in relation to any such appointment(a).

(2) Schedule 3 provides for the nomination and appointment of partnership governors required by the instrument of government.

(3) Schedule 4 imposes requirements which must be complied with in relation to the appointment of co-opted governors required by the instrument of government, other than additional co-opted governors.

### **Notification of vacancies and appointments**

10.—(1) Subject to paragraphs (2) and (3), where a vacancy in the office of an appointed member of the governing body arises, the clerk to the governing body shall as soon as is reasonably practicable give notice in writing of that fact to the person or persons entitled to appoint a person to that office.

(2) Subject to paragraph (3), the clerk to the governing body shall, at least two months before the date of the expiry of the term of office of an appointed member, give notice in writing of that fact to the person or persons entitled to appoint a person to that office.

(3) Paragraphs (1) and (2) above shall not apply where the person or persons entitled to appoint a person to the office in question have already notified the clerk to the governing body in writing of the person appointed by them.

(4) Where any person or persons make an appointment to the governing body, they shall give written notice of the appointment to the clerk to the governing body specifying the name and usual place of residence of the person so appointed.

(5) For the purposes of this regulation, “appointed member” means—

- (a) a foundation governor;
- (b) an LEA governor;
- (c) a co-opted governor (including an additional co-opted governor);
- (d) a representative governor; or
- (e) a partnership governor.

### **Joint appointments**

11. If—

- (a) the instrument of government for a maintained school provides for one or more governors to be appointed by persons acting jointly, and
- (b) those persons fail to make an agreed appointment,

the appointment shall be made by, or in accordance with a direction given by, the Assembly.

### **Elections**

12. Schedule 5 makes provision for the election of governors.

### **Surplus governors**

13.—(1) Where—

- (a) a maintained school has more governors of a particular category (other than foundation governors)(b) than are provided for by the instrument of government for the school in accordance with Part II of Schedule 9 to the 1998 Act, and

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(a) Generally parent governors are elected. See paragraph 4 of Schedule 9 to the 1998 Act.

(b) Excess foundation governors are to be eliminated in accordance with the procedure set out in the instrument of government for the school.

- (b) the excess is not eliminated by the required number of governors of that category resigning,

such number of governors of that category as is required to eliminate the excess shall cease to hold office in accordance with paragraphs (2) and (3).

(2) The governors who are to cease to hold office shall be determined on the basis of seniority, the governor whose current period of continuous service (whether as a governor of one or more than one category) is the shortest being the first to cease to hold office.

(3) Where it is necessary for the purposes of paragraph (2) to select one or more governors from a group of equal seniority, it shall be done by drawing lots.

(4) For the purposes of this regulation, additional co-opted governors nominated by a particular category of person are treated as if they constituted a separate category of governor.

## PART III

### QUALIFICATIONS AND TENURE OF OFFICE

#### Application and Interpretation

**14.**—(1) This Part does not apply in relation to any member of a temporary governing body of a new school.

(2) In this Part, any reference to a governor continuing in office on transition to the new framework is a reference to a governor continuing in office under regulation 13 of the First Transitional Regulations or regulation 57 of the Second Transitional Regulations.

#### Qualifications and disqualifications

**15.** Subject to Part VIII (transitional provisions) Schedule 6 sets out the circumstances in which a person is qualified or disqualified for holding or continuing in office, or for being elected, appointed or nominated, as a governor of a school.

#### Term of office

**16.**—(1)(a) Any governor of a school required by an instrument of government other than—

- (i) a governor referred to in sub-paragraph (b) or (c),
- (ii) a governor referred to in paragraph 4 or 5 of Schedule 8,
- (iii) a head teacher,
- (iv) an ex officio foundation governor, or
- (v) a substitute governor,

and any additional governor or additional foundation governor appointed under section 16(1) or (8) of the 1998 Act, shall hold office for a term of four years.

- (b) Any foundation governor appointed on or after 1st September 1999 (other than an additional foundation governor appointed under section 16 of the 1998 Act or a substitute foundation governor) shall hold office for such term, not exceeding four years, as the person appointing him shall determine at the time of making the appointment and notify in writing to the clerk to the governing body of the school concerned at the time of notifying him of the appointment.
- (c) Any co-opted governor (other than an additional co-opted governor) appointed for the purposes of the initial constitution of the permanent governing body of a new school under the first instrument of government shall hold office for the term of one year.



(2) For the purposes of this regulation, “substitute governor” means any foundation governor appointed to act in the place of an ex officio foundation governor by virtue of any regulations made under paragraph 16 of Schedule 9 to the 1998 Act and “the original governor” means the ex officio foundation governor in whose place the substitute governor is appointed to act.

- (3) A substitute governor shall hold office until the earlier of the following—
- (a) the expiry of four years from the date when his appointment takes effect;
  - (b) the date when the original governor gives written notice to the clerk to the governing body to the effect that he is able and willing to act as a foundation governor; or
  - (c) the date when a person other than the original governor takes office in the post by virtue of which the ex officio governorship exists.

(4) This regulation and paragraphs 4 and 5 of Schedule 8 shall not prevent a governor—

- (a) from being elected or appointed for a further term; or
- (b) from being disqualified, by virtue of provision made under these Regulations, for continuing to hold office.

### **Resignation**

17.—(1) Any governor of a school may at any time resign his office.

(2) An ex officio foundation governor may resign by refusing to act as such a governor, either permanently or temporarily, but his resignation shall not prejudice the ex officio governorship of his successor in the post from which the ex officio governorship derives.

(3) A head teacher of a school may resign by choosing at any time not to be a governor.

### **Removal**

18.—(1) Subject to paragraph (2) and to Part VIII (transitional provisions), any governor of a school who was appointed otherwise than by being co-opted may be removed from office by the person or persons who appointed him.

(2) The power of removal in paragraph (1) does not apply in respect of any elected governor, parent governor who has been appointed rather than elected, or partnership governor.

- (3) (a) The governing body may, in accordance with the procedure set out in regulation 19, remove any additional co-opted governor at the request of a nominating body, if the governing body thinks fit.
- (b) A nominating body proposing the removal of an additional co-opted governor shall inform the governor in question (in writing) of the reasons why they are proposing his removal.
- (c) In this paragraph a “nominating body” means any person from whom nominations for appointment were sought in connection with the appointment of the additional co-opted governor in question.
- (d) In sub-paragraph (a) “request” means a written request, setting out the reasons for the proposed removal.

(4) Any co-opted governor (within the meaning of the 1998 Act) (other than an additional co-opted governor), may be removed from office by the governing body in accordance with the procedure set out in regulation 19.

### **Removal of governors by the governing body**

19.—(1) This regulation applies in relation to the removal of a governor from office in accordance with regulation 18(3) or (4).

(2) Subject to paragraphs (3) and (4), a resolution to remove a governor from office which is passed at a meeting of the governing body shall not have effect unless—

- (a) it is confirmed by a resolution passed at a second meeting of the governing body held not less than fourteen days after the first meeting (“the second meeting”); and
- (b) the matter of the governor’s removal from office is specified as an item of business on the agenda for each of those meetings.

(3) In relation to the removal of an additional co-opted governor, before the governing body resolve at the second meeting whether to confirm the resolution to remove the governor from office, the clerk shall give the reasons for removal provided by the nominating body and, where any governor or governors support the removal, they shall at that meeting explain their reasons for doing so and the governor whom it is proposed to remove shall be given an opportunity to make a statement in response.

(4) Before the governing body resolve at the second meeting whether to confirm the resolution to remove any co-opted governor (other than an additional co-opted governor) from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the governor whom it is proposed to remove shall be given an opportunity to make a statement in response.

#### **Notice of resignation or removal**

**20.**—(1) Where a governor of a school resigns his office or is removed from office (other than by the governing body), the governor or, where he is removed from office, those removing him, shall give written notice thereof to the clerk to the governing body of the school.

(2) At any time when a head teacher of a school chooses to be or not to be a governor thereof, he shall give written notice of that decision to the clerk to the governing body of the school.

## **PART IV CLERKS**

#### **Application and interpretation**

**21.**—(1) Regulations 23 and 25 do not apply to the appointment of the first clerk to the temporary governing body of a new school.

(2) Subject to paragraph (1), in regulations 22 to 25 references to a community, voluntary controlled, community special school, foundation, voluntary aided or foundation special school, or to a maintained school, include a new school which will be such a school.

(3) Any provision in this Part relating to the dismissal of a clerk to the governing body is without prejudice to any rights and liabilities which the clerk may have if he is employed under a contract of employment.

#### **Clerk to the governing body: restrictions**

**22.**—(1) On and after 1st April 2000—

- (a) the clerk to the governing body of a maintained school shall not be a member of the governing body;
- (b) the head teacher of a maintained school shall not serve as clerk to the governing body.

(2) Notwithstanding paragraph (1), the governing body may, where the clerk fails to attend a meeting of theirs, appoint any one of their number to act as clerk for the purposes of that meeting.

### **Appointment of the clerk to the governing body**

23.—(1) This regulation is subject to regulation 25.

(2) Where there is a vacancy in the office of clerk to the governing body<sup>(a)</sup> of a community, voluntary controlled or community special school, the local education authority shall appoint a person selected by the governing body to be the clerk.

(3) Subject to regulation 24, where there is a vacancy in the office of clerk to the governing body of a foundation, voluntary aided or foundation special school, the governing body shall appoint a clerk.

### **Dismissal of the clerk**

24.—(1) This regulation is subject to regulation 25.

(2) Where the governing body of a community, voluntary controlled or community special school determine that the clerk to the governing body should be dismissed—

- (a) they shall notify the authority in writing of their determination and the reasons for it; and
- (b) the authority shall dismiss the clerk to the governing body on receipt of the notification from the governing body.

(3) The governing body of a foundation, voluntary aided or foundation special school may determine that the clerk should be dismissed.

### **Appointment and dismissal of the clerk where the school does not have a delegated budget**

25.—(1) If at any time a maintained school does not have a delegated budget the following provision shall apply.

(2) In the case of a community, voluntary controlled or community special school, the local education authority may appoint and dismiss the clerk as the authority think fit.

(3) The authority shall in connection with the exercise of their functions under paragraph (2) consult the governing body to such extent as the authority think fit.

(4) In the case of a foundation, voluntary aided or foundation special school—

- (a) except with the consent of the local education authority, the governing body shall not—
  - (i) appoint a clerk, or
  - (ii) dismiss the clerk;
- (b) the local education authority may give the governing body directions requiring them to dismiss the clerk.

### **First clerk to the temporary governing body and clerking on transition to the permanent governing body**

26.—(1) The first clerk to the temporary governing body of a new school which will be a community, voluntary controlled, or community special school, or a foundation or foundation special school proposals for the establishment of which were published by the local education authority, shall be appointed by the local education authority.

(2) The first clerk to the temporary governing body of a new school not referred to in paragraph (1) which will be a foundation or voluntary aided school shall be appointed by the promoters of the school.

(3) The person who was the clerk to the temporary governing body shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.

### **Clerking on transition to the new framework**

27. Schedule 8 makes provision in relation to clerks to governing bodies on transition to the new schools framework under the 1998 Act.

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(a) Part VIII of these Regulations contains provisions relating to clerks to governing bodies and temporary governing bodies on transition to the new schools framework under the 1998 Act.

## PART V

### MEETINGS AND PROCEEDINGS OF GOVERNING BODIES

#### Interpretation

**28.** In this Part, except where the context otherwise requires, any reference to a school is a reference to a school or a new school which is, or will be, a maintained school.

#### Chairman and vice-chairman of the governing body

**29.—(1)** The governing body of a school (other than the temporary governing body of a new school) shall each school year, at their first meeting in that year, elect a chairman and vice-chairman from among their number (subject however to paragraph (2)),

(2) A governor who is employed to work, or is a registered pupil, at the school in question shall not be eligible for election as chairman or vice-chairman.

(3) Subject to paragraphs (4) and (5), the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with paragraph (1).

(4) The chairman or vice-chairman may at any time resign his office by giving notice in writing to the clerk to the governing body.

(5) The chairman or vice-chairman shall cease to hold office if—

- (a) he ceases to be a member of the governing body;
- (b) he is employed as a teacher or otherwise at the school in question;
- (c) in the case of the chairman, he is removed from office in accordance with regulation 30; or
- (d) in the case of the vice-chairman, he is elected in accordance with paragraph (6) to fill a vacancy in the office of chairman.

(6) Where by reason of any of the matters referred to in paragraphs (4) and (5) a vacancy arises in the office of chairman or vice-chairman, the governing body shall at their next meeting elect one of their number to fill that vacancy (subject however to paragraph (2)).

(7) Subject to paragraphs (8) and (11), where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chairman for the purposes of the meeting.

(8) Where in the circumstances referred to in paragraph (7) the vice-chairman is absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the governing body shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the governor elected shall not be a person who is employed to work at the school, or a registered pupil thereat.

- (9) (a) Before any meeting at which the chairman or vice-chairman is to be elected, the clerk to the governing body shall invite members of the governing body of the school to inform him whether they are willing to stand for election as chairman or vice-chairman.
- (b) The agenda for the meeting at which the chairman or vice-chairman is to be elected shall list the names of persons who have informed the clerk that they are willing to stand for election.
- (c) If no person is listed on the agenda referred to in sub-paragraph (b) as willing to stand for election as chairman, members of the governing body may state at the meeting at which the chairman is to be elected whether or not they are willing to stand for election.
- (d) Sub-paragraphs (a) to (c) apply in relation to the election of the vice-chairman as they apply in relation to the election of the chairman.

(10) Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.

(11) The clerk to the governing body shall act as chairman during that part of any meeting at which the chairman of the governing body is to be elected.

### **Removal from office of the chairman of the governing body**

**30.**—(1) Subject to the following provisions of this regulation, the governing body (other than the temporary governing body of a new school) may remove the chairman from office.

(2) Subject to paragraphs (3) and (4), a resolution to remove the chairman from office which is passed at a meeting of the governing body shall not have effect unless—

- (a) it is confirmed by a resolution passed at a second meeting of the governing body held not less than fourteen days after the first meeting (“the second meeting”); and
- (b) the matter of the chairman’s removal from office is specified as an item of business on the agenda for each of those meetings.

(3) Where the governing body include additional governors appointed under section 27 of the School Inspections Act 1996<sup>(a)</sup> or section 16 or 18 of the 1998 Act, paragraph (4) shall apply instead of paragraph (2).

(4) A resolution to remove the chairman from office which is passed at a meeting of the governing body shall not have effect unless the matter of the chairman’s removal from office is specified as an item of business on the agenda for that meeting.

(5) Before the governing body resolve at the relevant meeting on whether to confirm the resolution to remove the chairman from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the chairman shall be given an opportunity to make a statement in response.

(6) In paragraph (5), the reference to the relevant meeting is—

- (a) in any case to which paragraph (2) applies, to the second meeting held to consider the chairman’s removal; and
- (b) in any case to which paragraph (4) applies, to any meeting held to consider the chairman’s removal from office.

### **Chairman and vice-chairman of temporary governing bodies**

**31.**—(1) The temporary governing body of a new school shall, at their first meeting, elect a chairman and vice-chairman from among their number (subject however to paragraph (7))<sup>(b)</sup>.

(2) The chairman or vice-chairman of a temporary governing body may at any time resign his office by giving notice in writing to the clerk to the temporary governing body.

(3) The chairman or vice-chairman of a temporary governing body shall cease to hold office as such if—

- (a) he ceases to be a member thereof;
- (b) he is employed as a teacher or otherwise at the new school; or
- (c) in the case of a vice-chairman, he is elected in pursuance of paragraph (4) to fill a casual vacancy in the office of chairman.

(4) Where by reason of any of the matters referred to in paragraphs (2) and (3) a vacancy arises in the office of chairman or vice-chairman, the temporary governing body shall at their next meeting elect one of their number to fill that vacancy (subject however to paragraph (7)).

(5) Subject to paragraph (6), where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chairman for the purposes of the meeting.

(6) Where in the circumstances referred to in paragraph (5) the vice-chairman is absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the temporary governing body shall elect one of their number to act as a chairman for the purposes of that meeting, but subject to paragraph (7).

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(a) 1996 c.57. Such governors continue in office from 1st September by virtue of regulation 57 of the Second Transitional Regulations.

(b) Part VIII makes provision in relation to chairmen and vice-chairmen of temporary governing bodies of new schools on transition to the new schools framework under the 1998 Act.

- (7) A member of the temporary governing body of a new school who is—
- (a) the head teacher of the new school,
  - (b) a temporary teacher governor of the new school,
  - (c) a person employed to work at the new school or, in the opinion of the other temporary governors, likely to become so employed,

shall not be eligible for election as chairman or vice-chairman of the temporary governing body of the new school or as a chairman of a meeting thereof but, subject as aforesaid, every temporary governor shall be so eligible.

(8) Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.

(9) The clerk to the temporary governing body shall act as chairman during that part of any meeting at which the chairman of the temporary governing body is elected.

(10) Schedule 8 makes provision in relation to chairmen and vice-chairmen of temporary governing bodies of new schools on transition to the new schools framework under the 1998 Act.

### **Right of the head teacher to attend meetings**

**32.**—(1) A head teacher of a school who is not a governor thereof shall be entitled to attend any meeting of the governing body of the school subject, however, to Part VII.

(2) Where two or more schools are to be discontinued (“the discontinued schools”), and the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school, the head teachers of the discontinued schools shall be entitled to attend any meeting of the temporary governing body of the new school until a head teacher is appointed for that new school, subject, however, to Part VII.

### **Public access to meetings**

**33.** Any question whether any person who is not—

- (1) a member of the governing body,
- (2) the clerk to the governing body, or

(3) a head teacher entitled under regulation 32 to attend meetings of the governing body of a school,

should be allowed to attend meetings thereof shall be determined by the governing body.

### **Convening of meetings of the governing body**

**34.**—(1) The governing body of every school, other than a new school, shall hold at least one meeting in every school term.

(2) The temporary governing body of a new school shall hold a meeting as often as occasion may require.

(3) Meetings of the governing body shall be convened by the clerk to the governing body; and, without prejudice to paragraph (5), in exercising his functions under this paragraph the clerk to the governing body shall comply with any direction—

- (a) given by the governing body; or
- (b) given by the chairman of governing body or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the governing body, so far as such direction is not inconsistent with any direction given as mentioned in sub-paragraph (a).

(4) Any three members of the governing body may, by notice in writing given to the clerk to the governing body, requisition a meeting thereof; and it shall be the duty of the clerk subject to paragraph (5), to convene such a meeting as soon as is reasonably practicable.

(5) Each member of the governing body of a school, the head teacher (if he is not a member of the governing body) and the local education authority by whom the school is maintained shall be given, at least seven clear days before the date of a meeting—

- (a) notice in writing thereof, signed by the clerk to the governing body; and
- (b) a copy of the agenda for the meeting;

provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefor, are given within such shorter period as he directs.

(6) The power of the chairman or vice-chairman under paragraph (5) to direct that a meeting be held within a shorter period shall not apply in relation to any meeting at which the chairman's removal from office is to be considered in accordance with regulation 30 or a co-opted governor's removal is to be considered in accordance with regulation 19.

(7) For the purposes of paragraph (5)—

- (a) notice of a meeting, and a copy of the agenda therefor, may be given to a person by leaving it at, or sending it by post to, his usual place of residence;
- (b) "head teacher" means any head teacher entitled, by virtue of regulation 32, to attend the meeting of the governing body.

(8) The convening of the meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda therefor.

#### **Rescission and variation of resolutions**

**35.** A resolution to rescind or vary a resolution carried at a previous meeting of the governing body shall not be proposed at a meeting of the governing body unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting.

#### **Termination and adjournment of meetings**

**36.—**(1) If the number of members of the governing body who are present at the time and place appointed for a meeting thereof does not constitute a quorum for the purposes of regulation 37 the meeting shall not be held.

(2) A meeting of the governing body shall be terminated forthwith if—

- (a) the governing body so resolve; or
- (b) the number of members present ceases to constitute a quorum for a meeting of the governing body in accordance with regulation 37.

(3) Where in accordance with paragraph (1) or (2) a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the clerk to the governing body as soon as is reasonably practicable.

(4) Where the governing body resolve in accordance with paragraph (2)(a) to adjourn a meeting before all the items of business on the agenda have been disposed of, the governing body shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the clerk to the governing body to convene a meeting accordingly.

(5) In any case falling within paragraph (4) above, the governing body may determine that the further meeting referred to in that paragraph shall be held at a date and time which, because of its proximity in time to the adjourned meeting, would not allow the clerk to the governing body a sufficient period for the purpose of giving the notice required by regulation 34:

provided that in such a case the clerk to the governing body shall use his best endeavours to secure that any member of the governing body not present at the first meeting is informed of the time and date of the further meeting.

## Quorum

37.—(1) The quorum for a meeting of the governing body and any vote on any matter thereat shall subject to paragraph (2), be any three members of that body or, where greater, any one third (rounded up to a whole number) of the membership when complete.

- (2) Subject to paragraph (3) below, the quorum for the purposes of—
- (a) appointing a parent governor or partnership governor,
  - (b) co-opting governors (otherwise than as foundation governors),
  - (c) co-opting temporary governors<sup>(a)</sup>,
  - (d) appointing members of, or determining any question relating to, any committee established under these Regulations or any head teacher or deputy head teacher selection panel under Schedule 16 or 17 to the 1998 Act,
  - (e) any vote on the removal of a member of the governing body in accordance with regulation 19,
  - (f) any vote on the removal of the chairman of the governing body in accordance with regulation 30, or
  - (g) making arrangements for an Education Action Forum<sup>(b)</sup> to discharge any function on behalf of the governing body or assume full responsibility for the discharge of any function of the governing body,

shall be two-thirds (rounded up to a whole number) of the persons who are at the time members of the governing body entitled to vote on those respective matters.

(3) In any case to which paragraphs (3) and (4) of regulation 30 apply for the purposes of the removal of the chairman of the governing body, paragraph (2) shall have effect as if the reference to two-thirds were a reference to one-half.

## Proceedings of the governing body

38.—(1) Subject to paragraph (2), every question to be decided at a meeting of the governing body shall be determined by a majority of the votes of the members present and voting on the question.

(2) Where there is an equal division of votes the chairman or, as the case may be, the person who in accordance with regulation 29 is acting as chairman for the purposes of the meeting, shall have a second or casting vote.

- (3) The proceedings of the governing body of a school shall not be invalidated by—
- (a) any vacancy among their number;
  - (b) any defect in the election, appointment or nomination of any governor, or the continuation in office of any governor by virtue of the First Transitional Regulations or the Second Transitional Regulations; or
  - (c) the school having more governors of a particular category than are provided for by the instrument of government, pending removal of the surplus governors pursuant to paragraph 17 of Schedule 9 to the 1998 Act.

## Minutes of meetings

39.—(1) The minutes of the proceedings of a meeting of the governing body shall, subject to paragraph (2), be drawn up and entered into a book kept for the purpose by the person acting as a clerk to the governing body for the purposes of the meeting; and shall be signed (subject to the approval of the governing body) at the same or next subsequent meeting by the person acting as a chairman thereof.

(2) The minutes of proceedings of meetings may be entered on loose-leaf pages consecutively numbered; but in that case the person signing the minutes shall initial each page.

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(a) Regulations under section 44 of the 1998 Act will make provision for the constitution of temporary governing bodies.

(b) No Education Action Forum can be established in Wales unless an Order is made by the Assembly under section 10(8) of the 1998 Act applying sections 10–13 of that Act in relation to Wales. No such Order has yet been made.



(3) The person acting as the clerk to the governing body for the purposes of any meeting shall record immediately before the entry recording the minutes of that meeting in the book or pages used for that purpose the names of those members of the governing body and of any other person present at the meeting concerned.

(4) On request made in that behalf by the local education authority by whom a school is maintained, in relation to a particular meeting or generally, that authority shall be supplied with a copy of the draft or signed minutes of the relevant meeting or (as the case may be) of any meeting of the governing body of the school.

#### **Publication of minutes and papers**

**40.**—(1) Subject to paragraph (2), the governing body shall ensure that a copy of—

- (a) the agenda for every meeting of the governing body,
- (b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting.
- (c) the signed minutes of every such meeting, and
- (d) any report, document or other paper considered at any such meeting,

are, as soon as is reasonably practicable, made available at the school to persons wishing to inspect them.

(2) There may be excluded from any item required to be made available in pursuance of paragraph (1), any material relating to—

- (a) a named teacher or other person employed, or proposed to be employed, at the school;
- (b) a named pupil at, or candidate for admission to, the school; and
- (c) any matter which, by reason of its nature, the governing body are satisfied should remain confidential.

(3) This regulation does not apply in relation to temporary governing bodies of new schools.

#### **Delegation of functions**

**41.**—(1) Subject to any other statutory provision concerning the exercise of functions on behalf of the governing body and to regulation 42, the governing body of a school may, in such circumstances as they think fit, delegate any of the functions conferred on them by or under any enactment to any committee established by them or to any member of the governing body or the head teacher.

(2) Where the governing body have delegated functions to an individual or committee under paragraph (1) or to a committee under regulation 42(4) or (5), this shall not prevent the governing body from exercising those functions themselves.

#### **Restrictions on delegation**

**42.**—(1) The governing body may not delegate under regulation 41(1) functions referred to in paragraphs (2) to (5) or functions relating to the powers conferred and the duties imposed on governing bodies by or under—

- (a) section 394 of the 1996 Act (which relates to application to advisory councils concerning the requirements for Christian collective worship);
- (b) section 403 of the 1996 Act (which relates to sex education);
- (c) section 406 and 407 of the 1996 Act (which relate to the prohibition of political indoctrination and the balanced treatment of political issues);
- (d) section 457 of the 1996 Act (which relates to policies on charges and remissions);
- (e) section 12(2)(a) of the 1998 Act (which relates to the making of arrangements for the discharge of governing body functions by or ceding of governing body functions to an Education Action Forum and the request to an Education Action Forum to cease discharging functions on their behalf);

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(a) Section 12 of the 1998 Act will not apply in relation to Wales unless an Order to that effect has been made by the Assembly—see section 10(8) of the 1998 Act. No such Order has yet been made.

- (f) sections 28, 29, 30 or 31 of, or paragraph 10(4) of Schedule 6 to, the 1998 Act (which relate to alteration or discontinuance of maintained schools);
- (g) sections 28 or 31 of the 1998 Act as they have effect (by virtue of regulations under Schedule 8 to the 1998 Act) in relation to proposals made under that Schedule (which relates to change of category of maintained schools);
- (h) section 41 of the 1998 Act (which relates to the times of school sessions and the dates of school terms and holidays);
- (i) section 42 of the 1998 Act (which relates to the governors' annual report to parents) in so far as approval of the governors' report is concerned;
- (j) the local education authority's scheme under section 48(1) of the 1998 Act, to the extent that it requires the governing body to give their approval to the first formal budget plan of the financial year;
- (k) section 61(1) to (3) of the 1998 Act (which relate to school discipline policies);
- (l) sections 88, 89, 90(8) and 91 of the 1998 Act (which relate to determination of admission arrangements), section 90(1)(a) of the 1998 Act (which relates to the decision to object to the admissions arrangements of another admissions authority), section 93 of and Schedule 23 to the 1998 Act (which relate to fixing admission numbers and variation of standard numbers), and section 94 of the 1998 Act (in so far as it relates to the determination of appeal arrangements by the governing body);
- (m) section 110(1) and (7) of the 1998 Act (which relate to adoption and review of home-school agreements);
- (n) paragraph 4(4) or (5) of Schedule 11 to the 1998 Act (which relate to the regulation of procedure);
- (o) paragraphs 6 of Schedule 16 and 7 and 30 of Schedule 17 to the 1998 Act (which relate to head teacher and deputy head teacher selection panels);
- (p) paragraphs 10 to 16 of Schedule 16 and paragraphs 11 to 16 of Schedule 17 to the 1998 Act (which relate to appointment of teachers other than the head teacher or deputy head teacher)(b);
- (q) paragraphs 27(2) of Schedule 16 and paragraph 24(2) of Schedule 17 to the 1998 Act (which relate to the making of arrangements for appeals in cases of dismissal);
- (r) paragraph 2 of Schedule 20 to the 1998 Act (which relates to arrangements for collective worship);
- (s) regulation 29 or 31 (which relate to the appointment of the chairman and vice-chairman of a governing body);
- (t) regulation 30 (which relates to removal of the chairman of the governing body);
- (u) regulation 34(1) or (2) (which relate to the requirement to hold a governing body meeting once a term, or a meeting of the temporary governing body, as often as occasion may require);
- (v) statutory provisions relating to the decision to delegate functions, or the establishment, constitution and review of committees, including selection panels;
- (w) statutory provisions relating to the contents, preparation or variation of the instrument of government;
- (x) statutory provisions relating to the appointment, co-option or removal of governors including temporary governors; and
- (y) Part III of the Education (School Information) (Wales) Regulations 1997(c) (which relates to information to be published by governing bodies) in so far as approval of the school prospectus (referred to in regulation 9 of those Regulations) is concerned.

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(a) Section 90(5) of the 1998 Act alters the effect of section 90(1) in relation to Wales.

(b) These functions are not delegated under regulation 41 because there are specific powers of delegation (to one or more governors, the head teacher, or one or more governors and the head teacher in paragraph 17 of Schedule 16 and paragraph 17 of Schedule 17 to the 1998 Act.

(c) S.I. 1997/1832, amended by S.I. 1998/2697 and S.I. 1999/127.

- (2) (a) The following functions of the governing body of a school shall be delegated to a committee, to be known as the staff dismissal committee, in accordance with regulation 47—
- (i) at a community, voluntary controlled or community special school, the initial determination under paragraph 25 of Schedule 16 to the 1998 Act that any person employed by the local education authority to work at the school should cease to work there;
  - (ii) at a foundation, voluntary aided or foundation special school, the initial decision that a person employed to work at the school should have his contract of employment with the governing body terminated or should not have that contract renewed (except where the dismissal is pursuant to a direction of the local education authority under section 55(5) of the 1998 Act);
  - (iii) the hearing of representations in relation to a decision which must be delegated under this sub-paragraph.
- (b) The hearing of any appeal in respect of a decision which must be delegated under sub-paragraph (a) shall be delegated to a committee, known as the dismissal appeal committee, in accordance with regulation 47.
- (3) The governing body of a school shall in accordance with regulation 48 establish a committee, to be known as the pupil discipline committee, to discharge the functions conferred on them by sections 65 to 68 of the 1998 Act (exclusion of pupils).
- (4) Any power of the governing body of a school to determine whether any child should be admitted to the school shall not be delegated to an individual, but may be delegated to a committee, to be known as an admissions committee, in accordance with regulation 49.
- (5) The functions of the governing body of a school—
- (a) under section 63 of the 1998 Act (school attendance targets),
  - (b) under section 439(7) of the 1996 Act (school attendance orders),
  - (c) under sections 95(2) and 97(3) of the 1998 Act (appeal against decision of the local education authority to admit a child and referral to the Secretary of State in respect of a direction made by the local education authority to admit a child), and
  - (d) which consist of the taking of any decision as to the particulars of premises to be submitted to the Secretary of State for approval under section 544 of the 1996 Act,

shall not be delegated to an individual but may be delegated to a committee.

#### **Delegation of functions to the chairman and vice-chairman in cases of urgency**

**43.—**(1) The chairman of the governing body of a school shall have power, where in his opinion the circumstances mentioned in paragraph (2) apply, to exercise any function of the governing body which can be delegated under regulation 41(1).

(2) The circumstances are that a delay in exercising the function would be likely to be seriously detrimental to the interests of the school, or to the interests of any registered pupil at the school or his parent, or a person employed to work at the school.

(3) In paragraph (2), “a delay” means a delay for a period extending beyond the day preceding the earliest date on which it would be reasonably practicable for a meeting of the governing body or a committee of the governing body to whom the function in question has been delegated to be held.

- (4) Where it appears to the vice-chairman that—
- (a) the circumstances mentioned in paragraph (2) apply, and
  - (b) the chairman (whether by reason of a vacancy in his office or otherwise) would be unable to exercise the function in question before the detriment referred to in that sub-paragraph is suffered,

the reference in paragraph (1) to the chairman shall have effect as if it were a reference to the vice chairman.

### **Reporting to the governing body following the exercise of delegated functions**

44.—(1) This regulation applies where any function of the governing body of a school has been delegated to or is otherwise exercisable by a member of the governing body (including the chairman or vice-chairman), the head teacher, or a committee established by them.

(2) Any member, head teacher or committee to whom a function of the governing body has been delegated or who has otherwise exercised a function of the governing body shall report to the governing body in respect of any action taken or decision made with respect to the exercise of that function at the meeting of the governing body immediately following the taking of the action or the making of the decision.

## **PART VI**

### **COMMITTEES OF GOVERNING BODIES**

#### **Interpretation and application**

45.—(1) In this Part, except where the context otherwise requires, any reference to a school is a reference to a school or a new school which is, or will be, a maintained school.

(2) This Part shall not apply in relation to head teacher and deputy head teacher selection panels.

#### **Establishment and constitution of committees of the governing body**

46.—(1) Subject to paragraphs (2) to (4) of regulation 42, the governing body of a school may establish such committees as they think fit for the purpose of exercising on their behalf such functions as they may delegate to a committee in accordance with regulations 41 or 42.

(2) Subject to regulations 47, 48 and 49, and to paragraph 17 of Schedule 16 and paragraph 17 of Schedule 17 to the 1998 Act—

- (a) the constitution and membership of any committee of the governing body shall be determined by the governing body;
- (b) the establishment, terms of reference, constitution and membership of any committee of the governing body shall be reviewed at least once in every twelve months;
- (c) the membership of any committee of the governing body may include persons who are not members of the governing body provided that a majority of members of any such committee shall be members of the governing body;
- (d) subject to sub-paragraph(e), the members of the committee who are not members of the governing body shall not be entitled to vote in any proceedings of the committee;
- (e) the governing body may determine that some or all of the members of a committee who are not members of the governing body shall be entitled to vote in any proceedings of the committee;
- (f) no vote on any matter shall be taken at a meeting of a committee of the governing body unless the majority of members of the committee present are members of the governing body of the school;
- (g) the chair at any meeting of a committee of the governing body shall be taken by the chairman thereof, except that when he is absent those present shall elect from among their number a person to take the chair at the meeting during such absence;
- (h) no person who is employed to work at the school, or a registered pupil thereat, shall act as chairman of a committee of the governing body.

#### **Staff dismissal committee and dismissal appeal committee**

47.—(1) Subject to paragraph (6), the staff dismissal committee shall include not less than three members of the governing body.

(2) The dismissal appeal committee shall include no fewer members of the governing body than the staff dismissal committee the decision of which is subject to appeal.

(3) Where a dismissal appeal committee is considering an appeal against a decision of the staff dismissal committee, no member of the staff dismissal committee whose decision is subject to appeal shall take part in the proceedings of the dismissal appeal committee.

(4) The head teacher of the school shall not be a member of the staff dismissal committee or the dismissal appeal committee.

(5) No member of the staff dismissal committee or the dismissal appeal committee who is not a member of the governing body shall be entitled to vote in any proceedings of the committee in question.

(6) Where it is not reasonably practicable for the staff dismissal committee and the dismissal appeal committee each to include three members of the governing body, the staff dismissal committee shall include two members of the governing body.

### **Pupil discipline committee**

**48.**—(1) The pupil discipline committee referred to in regulation 42(3) shall consist of either three or five members of the governing body, but shall not include the head teacher.

(2) The quorum for a meeting of the pupil discipline committee and any vote on any matter thereat shall be three members of the committee.

(3) Despite regulation 42(3), the chairman of the pupil discipline committee may exercise any function conferred on the governing body by subsections (2) to (4) of section 66 of the 1998 Act in a case where—

- (a) a pupil has been excluded for a fixed period in circumstances in which he would, as a result of the exclusion, lose an opportunity to take any public examination; and
- (b) it appears to the chairman that it would not be practical for a quorate meeting of the committee to take place for any purpose referred to in those subsections before the time when the pupil would be due to take that examination.

### **Admissions committee**

**49.**—(1) Where the governing body establish an admissions committee under regulation 42(4) that committee shall consist of—

- (a) the head teacher of the school (who shall be entitled to vote whether or not he is a governor); and
- (b) at least two other persons who are members of the governing body.

(2) In the case of any school which has more than one head teacher, the reference in paragraph (1)(a) to the head teacher shall be interpreted as a reference to one of the head teachers.

### **Disqualification of members of governing body committees**

**50.**—(1) No person shall be qualified for membership of a committee of a governing body of a school unless he is aged 18 or over at the date of his appointment.

(2) Subject to paragraph (4) the following paragraphs of Schedule 6 shall apply so as to disqualify members of committees of the governing body who are not members of the governing body—

- (a) paragraph 2 (mental disorder);
- (b) paragraph 5 (bankruptcy);
- (c) paragraph 6 (disqualification of company directors);
- (d) paragraph 7 (disqualification of charity trustees);
- (e) paragraph 8 (list of persons whose employment is prohibited or restricted);
- (f) paragraph 9 (persons disqualified for being proprietors of independent schools);
- (g) paragraph 10 (criminal convictions).

- (3) Where, by virtue of paragraph (2)—
- (a) a person becomes disqualified for holding, or for continuing to hold office as a member of a committee of the governing body, and
  - (b) he is, or is proposed to become such a member,
- he shall upon becoming so disqualified give written notice of that fact to the clerk to the governing body.
- (4) For the purposes of paragraph (2)—
- (a) in the provisions referred to in paragraph (2)(a) to (g), for references to “governor” there shall be substituted “member of a committee of the governing body”; and
  - (b) in paragraph 10 of Schedule 6—
    - (i) sub-paragraph (2) shall be omitted; and
    - (ii) there shall be omitted (in each place in which they appear) the words “or election”, “or, as the case may be, on which he would otherwise have become a governor ex officio” and “or, as the case may be, since he became a governor ex officio.”.

#### **Clerks to committees**

- 51.—**(1) (a) In establishing any committee referred to in regulations 47, 48 or 49, the governing body shall appoint a clerk to the committee.
- (b) In establishing any other committee, the governing body may appoint a clerk to the committee.
- (2) The governing body of a school may dismiss any clerk appointed by them under paragraph (1).
- (3) On and after 1st April 2000—
- (a) the clerk to any committee referred to in regulation 47, 48 or 49 shall not be a member of the governing body or a member of the committee concerned; and
  - (b) the head teacher shall not serve as clerk to any committee referred to in regulation 47, 48 or 49.
- (4) Notwithstanding paragraph (1), a committee of the governing body may, where their clerk fails to attend a meeting of theirs, appoint any one of their number to act as clerk for the purposes of that meeting.

#### **Meetings of committees**

- 52.—**(1) Each member of a committee of the governing body of a school and the head teacher of the school shall be given, at least seven clear days before the date of a meeting—
- (a) notice in writing thereof; and
  - (b) a copy of the agenda for the meeting;
- provided that where the chairman of the committee so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefor, are given within such shorter periods as he directs.
- (2) For the purposes of paragraph (1) notice of a meeting, and a copy of the agenda therefor, may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

#### **Proceedings of committees**

- 53.—**(1) Subject to paragraph (2) every question to be decided at a meeting of a committee of the governing body shall be determined by a majority of the votes of the eligible members present and voting on the question, except that where there is an equal division of votes the person who is acting as chairman for the purposes of the meeting shall have a second or casting vote.

(2) For the purposes of paragraph (1) an “eligible member” means any person entitled to vote in the proceedings of the committee in accordance with these Regulations.

(3) The proceedings of a committee of the governing body shall not be invalidated by—

- (a) any vacancy among their number; or
- (b) any defect in the appointment of any member of the committee.

(4) (a) Paragraph (1) is subject to paragraph 6(3) of Schedule 16 and paragraph 7(3) of Schedule 17 to the 1998 Act;

(b) Paragraphs (1) and (3) are subject to regulation 46(2)(f).

#### **Minutes of meetings of committees**

**54.**—(1) The minutes of the proceedings of a meeting of a committee of the governing body shall, subject to paragraph (2), be drawn up and entered into a book kept for the purpose by the person acting as a clerk to the committee for the purposes of the meeting; and shall be signed (subject to the approval of the committee) at the same or next subsequent meeting by the person acting as a chairman thereof.

(2) The minutes of proceedings of meetings may be entered on loose-leaf pages consecutively numbered; but in that case the person signing the minutes shall initial each page.

(3) The person acting as the clerk to a committee of the governing body for the purposes of any meeting shall record immediately before the entry recording the minutes of that meeting in the book or pages used for that purpose the names of those members of the committee and of any other person present at the meeting concerned.

(4) On request made in that behalf by the local education authority by whom a school is maintained, in relation to a particular meeting or generally, that authority shall be supplied with a copy of the draft or signed minutes of the relevant meeting or (as the case may be) of any meeting of a committee of the governing body of the school.

#### **Publication of minutes and papers of committees**

**55.**—(1) Subject of paragraph (2), a committee of the governing body shall ensure that a copy of—

- (a) the agenda for every meeting of the committee,
- (b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting,
- (c) the signed minutes of every such meeting, and
- (d) any report, document or other paper considered at any such meeting,

are, as soon as is reasonably practicable, made available at the school to persons wishing to inspect them.

(2) There may be excluded from any item required to be made available in pursuance of paragraph (1) any material relating to—

- (a) a named teacher or other person employed, or proposed to be employed, at the school;
- (b) a named pupil at, or candidate for admission to, the school; and
- (c) any matter which, by reason of its nature, the committee are satisfied should remain confidential.

(3) This regulation does not apply to a committee of a temporary governing body.

#### **Access to committee meetings**

**56.**—(1) Where two or more schools are to be discontinued (“the discontinued schools”) and the registered pupils at those schools, or a substantial number of those pupils, are expected to transfer to a new school, the head teachers of the discontinued schools shall be entitled to attend any meeting of a committee of the temporary governing body of the new school until a head teacher is appointed for that new school, subject, however, to Part VII.

- (2) Any question whether any person who is not—
- (a) a member of a committee of the governing body, or the clerk to the committee, or
  - (b) a head teacher entitled under this regulation to attend meetings of the committee,

should be allowed to attend any meetings thereof shall be determined by the committee concerned.

## PART VII

### RESTRICTIONS ON PERSONS TAKING PART IN PROCEEDINGS

**57.**—(1) In this regulation and in Schedule 7—

- (a) any reference to a school is a reference to a maintained school or a new school which is, or will be, a maintained school;
- (b) “relevant person” means a member of the governing body, a member of a committee of the governing body, the head teacher or any person acting as clerk to the governing body or committee;
- (c) any reference, however expressed, to a committee of the governing body includes, where applicable, a selection panel.

(2) Subject to any exception in these Regulations and to any other statutory provision—

- (a) where in relation to any matter there may be a conflict between the interests of a relevant person and the interests of the governing body, or
- (b) where a fair hearing is required and there is any reasonable doubt about a relevant person’s ability to act impartially in relation to any matter,

that person, if present at a meeting of the governing body or a committee of the governing body at which the matter is the subject of consideration, shall withdraw from the meeting and not vote on the matter in question.

(3) Nothing in this regulation or in Schedule 7 shall be construed as precluding the governing body, or a committee of the governing body—

- (a) from allowing a person who appears to them to be able to give evidence to attend any hearing conducted by them into any matter and to present his evidence; or
- (b) from hearing representations from a relevant person acting in a capacity other than that of a relevant person.

(4) Any person who is acting as the clerk to the governing body or a committee of the governing body shall not be required to withdraw from a meeting by this regulation or Schedule 7, unless his pay or disciplinary action against him is the subject of consideration, but if paragraph (2) or Schedule 7 would have otherwise required him to withdraw, he shall not act in any capacity other than that of clerk.

(5) A governor or member of a committee of a governing body shall not be prevented from considering or voting upon any matter by reason that he is a member of the governing body or a member of the committee of a governing body at more than one school and that the interests of any school at which he is a governor or a member of a committee conflict with the interests of any other school at which he is a governor or a member of a committee.

(6) Where there is any dispute as to whether a relevant person is required by this regulation or by Schedule 7 to withdraw from a meeting and not vote, that question shall be determined by the other members of the governing body or committee present at the meeting.

(7) Schedule 7 makes provision in connection with specified conflicts of interest and cases where a relevant person is required to withdraw from a meeting or not vote.



**PART VIII**  
**TRANSITIONAL PROVISIONS**

**58.**—(1) Schedule 8 makes provision in relation to—

- (a) qualifications, disqualifications and terms of office and removal of governors at maintained schools, and
- (b) clerks to, and chairmen and vice chairmen of, governing bodies of maintained schools and new schools,

on transition to the new framework under the 1998 Act.

(2) Schedule 8 amends the First Transitional Regulations and the Second Transitional Regulations in so far as they apply to Wales.

Signed on behalf of the Assembly under section 66(1) of the Government of Wales Act 1998

4th August 1999 *Dafydd Elis Thomas*  
Presiding Officer of the National Assembly for Wales

Signed by authority of the Secretary of State for Wales

5th August 1999 *David Hanson*  
Parliamentary Under Secretary of State,  
Welsh Office

## ADDITIONAL CO-OPTED GOVERNORS

1. In this Schedule, “sponsor” in relation to a school means a person who gives, or has given, substantial financial assistance (which for these purposes includes benefits in kind other than the provision of services) to the school other than pursuant to any statutory obligation.

2. Where the school has one or more sponsors, the governing body may determine that the instrument of government shall provide for the governing body of the school to include such number of additional co-opted governors, nominated in accordance with paragraph 3, as may be determined by the governing body, not exceeding two.

3. Nominations for such appointments shall be sought from the school’s sponsor, or (as the case may be) from any one or more of the school’s sponsors.

4. Where the school is a participating school in relation to an education action zone(a), the governing body may determine that the instrument of government shall provide for the governing body of the maintained school to include one additional co-opted governor nominated by the Education Action Forum(a) for the zone in relation to which the school is a participating school.

## SCHEDULE 2

## PARENT GOVERNORS

1. In this Schedule “appropriate authority” has the same meaning as in Schedule 5 (elections).

2.—(1) This paragraph applies to any maintained school to which this Schedule applies(b), other than a community or foundation special school established in a hospital.

(2) In the case of a school to which this paragraph applies, parent governors shall be appointed by the governing body if—

- (a) at least 50 per cent of the registered pupils at the school are boarders; and
- (b) it would, in the opinion of the appropriate authority, be impracticable for there to be an election of parent governors.

3. In the case of a school which is a community or foundation special school established in a hospital, parent governors shall be appointed by the governing body, where, in the opinion of the appropriate authority, it is likely to be impracticable for there to be an election of parent governors.

4. At any maintained school to which this Schedule applies, the number of parent governors required shall be made up by parent governors appointed by the governing body if—

- (a) one or more vacancies of parent governors are required to be filled by election; and
- (b) the number of parents standing for election is less than the number of vacancies.

5. Except where paragraph 6 applies, in appointing a parent governor(c) under this Schedule the governing body shall appoint—

- (a) a person who is the parent of a registered pupil at the school; or
- (b) where it is not reasonably practicable to do so, a person who is the parent of a child of compulsory school age.

6.—(1) Where the school is a community or foundation special school not established in a hospital, in appointing a parent governor under paragraph 2(2) or 4, the governing body shall appoint—

- (a) a person who is the parent of a registered pupil at the school;
- (b) a person who is the parent of a child of compulsory school age with special educational needs;

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(a) No Education Action Zones or Education Action Forums can be established in Wales unless an Order to that effect has been made by the Assembly under section 10(8) of the 1998 Act. No such Order has yet been made.

(b) See regulation 4.

(c) See also paragraph 13 of Schedule 6 for disqualifications for being appointed as a parent governor.

- (c) a person who is a parent of a person of any age with special educational needs; or
- (d) a person who is the parent of a child of compulsory school age.

(2) The governing body shall only appoint a person referred to in sub-paragraph (1)(b), (c) or (d) if it is not reasonably practicable to appoint a person referred to in the provision in that sub-paragraph which immediately precedes it.

## SCHEDULE 3

Regulation 9

### PARTNERSHIP GOVERNORS

**1.** Where a partnership governor is required, the governing body shall seek nominations from parents of registered pupils at the school, and from such other persons in the community served by the school as they consider appropriate.

**2.** No person shall nominate for appointment, or appoint, a person as a partnership governor<sup>(a)</sup> unless—

- (a) in the case of a person nominating himself, he considers himself to be from the community served by the school and committed to the good government and success of the school; and
- (b) in any other case, he is satisfied that the nominee or appointee appears to be from the community served by the school and committed to the good government and success of the school.

**3.—(1)** In the case of a school which will be or is a foundation special school without a foundation, the governing body shall in appointing partnership governors secure that at least one partnership governor is a person with experience of education for children with special educational needs.

(2) In seeking nominations for partnership governors for a school within sub-paragraph (1) the governing body shall take such steps as are reasonably practicable to secure that persons making nominations are aware of the requirement in that sub-paragraph.

**4.** Where a partnership governor is required, the governing body shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—

- (a) informed that he is entitled to nominate persons for appointment as partnership governors; and
- (b) informed about the procedures to be followed in making nominations.

**5.** Subject to paragraph 7(2), no member of the governing body may nominate a person for appointment as a partnership governor.

**6.** The governing body shall make all necessary arrangements for, and determine all other matters relating to, the nomination of partnership governors.

**7.—(1)** The governing body shall appoint such number of partnership governors as are required by the instrument of government from among eligible nominees.

(2) If—

- (a) the number of eligible nominees is less than the number of vacancies, or
- (b) in the case of a foundation special school at which a partnership governor with experience of education for children with special educational needs is required, no eligible nominee has such experience,

the number of partnership governors required shall be made up by persons selected by the governing body who are eligible and meet the requirements for appointment.

**8.** Where the governing body make an appointment under paragraph 7(2) having rejected any person nominated by a parent or the community served by the school they shall explain the reason for that decision to the local education authority and the person rejected.

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(a) See also paragraph 15 of Schedule 6 for disqualifications for being appointed as a partnership governor.

## CO-OPTED GOVERNORS

1. In this Schedule:
  - (a) “the relevant governors” means the members of the governing body who were not themselves appointed as co-opted governors;
  - (b) “the local community” includes the local business community.
2. In appointing a person to be a co-opted governor, the relevant governors—
  - (a) shall have regard to the extent to which the governing body of the maintained school includes members of the local community;
  - (b) shall have regard to any representations made to the governing body as to the desirability of increasing the connection between the governing body of the maintained school and the local community; and
  - (c) where it appears to them that no member of the governing body of the maintained school is a member of the local community or that it is desirable to increase the number of governors who are members of the local community, shall co-opt a person who appears to them to be a member of that community.
3. For the purposes of paragraph 2(a) and (c), in considering the extent to which the governing body of the maintained school includes members of the local community, the following governors shall not be regarded as members of the local community—
  - (a) LEA governors;
  - (b) parent governors;
  - (c) staff governors;
  - (d) teacher governors;
  - (e) partnership governors;
  - (f) additional co-opted governors nominated by minor authorities;
  - (g) the head teacher.

## SCHEDULE 5

## ELECTIONS

1. Subject to paragraph 3 in this paragraph “appropriate authority” means—
  - (a) in relation to a community, community special or voluntary controlled school, the local education authority; and
  - (b) in relation to a voluntary aided, foundation or foundation special school, the governing body.
2. Where a local education authority is the appropriate authority in relation to a school, that authority may delegate to the head teacher of the school any of their functions under this Schedule except their functions under paragraph 4.
3. The local education authority shall be the appropriate authority in relation to a school within paragraph 1(b) if the governing body and the local education authority so agree.
4. The appropriate authority shall determine—
  - (a) for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school;
  - (b) for the purposes of an election of teacher governors, any question whether a person is a teacher at the school;
  - (c) for the purposes of an election of staff governors, any question whether a person is employed under a contract of employment or a contract for services to work at the school otherwise than as a teacher.
5. Subject to paragraphs 6 to 9, the appropriate authority shall make all necessary arrangements for, and determine all other matters relating to, an election of parent governors, teacher governors, or staff governors.

6. The power conferred by paragraph 5—
  - (a) includes power to make provision as to qualifying dates, but
  - (b) does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.
7. Any election of parent governors, teacher governors or staff governors which is contested shall be held by secret ballot.
8. The arrangements made under paragraph 5 shall, in the case of any election of a parent governor, provide for every person who is entitled to vote in the election to have an opportunity to do so by post, or, if he prefers, by having his ballot paper returned to the school by a registered pupil at the school.
9. Where a vacancy for a parent governor is required to be filled by election, the appropriate authority shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—
  - (a) informed of the vacancy and that it is required to be filled by election;
  - (b) informed that he is entitled to stand as a candidate, and vote, at the election; and
  - (c) given an opportunity to do so.

## SCHEDULE 6

Regulations 15 and 50

### QUALIFICATIONS AND DISQUALIFICATIONS

#### General

1.—(1) No person shall be qualified for membership of a governing body of a school unless he is aged 18 or over at the date of his election or appointment.

(2) No person shall at any time hold more than one governorship of the same maintained school.

(3) Subject to paragraphs 12 and 15, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a maintained school does not disqualify him for election or appointment or for continuing as a governor of any other category at that school.

#### Mental disorder

2. A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is liable to be detained under the Mental Health Act 1983(a).

#### Governor of more than two schools

3.—(1) Subject to sub-paragraph (7), a person shall be disqualified for holding office as a governor of a school if, were he to continue in office as such on transition to the new schools framework, or be appointed or elected to that office, he would, on the date on which he would have so continued in office or on which the appointment or election would have taken effect, be a member of the governing body of more than two schools.

(2) For the purposes of sub-paragraph (1) no account shall be taken of ex officio governorships, temporary governorships, or additional governorships in respect of governors appointed under section 27 of the School Inspections Act 1996(b) or section 16 or 18 of the 1998 Act.

(3) Sub-paragraph (4) applies to a person who continues in office on transition to the new schools framework as, or who becomes, an ex officio member of the governing body of a relevant school and is an ex officio member of the governing body of more than two relevant schools.

(4) A person to whom this sub-paragraph applies shall be disqualified for continuing to hold office as an ex officio governor of any relevant school unless that school is for the time being a designated school.

(5) For the purposes of sub-paragraph (4), a designated school is a school designated by the ex officio governor, in accordance with sub-paragraph (6), by notice in writing to the clerk to the governing body of the school and to the clerk to the governing body of any other relevant school whose instrument of government provides for him to be an ex officio member.

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(a) 1983 c.20.

(b) 1996 c.57. See regulation 57 of the Second Transitional Regulations.

(6) A person to whom sub-paragraph (4) applies may designate one or two maintained schools provided that the number of governing bodies of relevant schools of which he will be an ex officio member shall be no more than two.

(7) Up to and including 31st August 2001 a person who on 31st August 1999 was a member of the governing body of a grouped school shall not be disqualified under sub-paragraph (1) for holding office as a governor of more than two schools, provided that at least two of the schools of which he is a governor were within the same group and that the total number of governing bodies of schools of which he is a member does not exceed three.

(8) For the purposes of this paragraph, a relevant school is a maintained school at which the governing body conducting the school are constituted or partly constituted under an instrument of government made under Schedule 12 to the 1998 Act.

(9) For the purposes of this paragraph, a grouped school is a school which, on 31st August 1999, formed part of a group of schools grouped under section 89 of the 1996 Act, whether or not its governing body was constituted under an instrument of government with effect from midnight on that date.

#### **Failure to attend meetings**

**4.—**(1) This paragraph shall apply in the case of any governor of a school who is not an ex officio governor.

(2) Such a governor who, without the consent of the governing body concerned, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of a meeting, shall, on the expiry of that period, be disqualified for continuing to hold office as a governor of that school.

(3) Where a governor has sent an apology to the clerk to the governing body before a meeting which he does not propose to attend, the minutes of the meeting shall record the governing body's consent or otherwise to his absence and a copy of the minutes shall be sent to the governor concerned at his normal place of residence.

(4) In relation to a governor who has continued in office on transition to the new schools framework, the period before 1st September 1999 shall be taken account of in considering whether the governor has failed to attend meetings of the governing body for a continuous period of six months.

(5) A foundation governor, LEA governor, representative governor or co-opted governor who has been disqualified as a governor of a school under paragraph (2) shall not be qualified for appointment as a governor of the same category at that school during the 12 months immediately following his disqualification under sub-paragraph (2).

#### **Bankruptcy**

**5.** A person shall be disqualified for holding or continuing to hold office as a governor of a school if—

- (1) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded;
- (2) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

#### **Disqualification of company directors**

**6.** A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is subject to a disqualification order under the Company Directors Disqualification Act 1986(a) or to an order made under section 429(2)(b) of the Insolvency Act 1986(b) (failure to pay under county court administration order).

#### **Disqualification of charity trustees**

**7.** A person shall be disqualified for holding or for continuing to hold office as a governor of a school if—

- (1) he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or

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(a) 1986 c.46.

(b) 1986 c.45.

- (2) he has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990<sup>(a)</sup> (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body.

#### **Persons whose employment is prohibited or restricted**

**8.**—(1) A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted.

(2) In sub-paragraph (1), “the list” means the list kept for the purposes of regulations made under section 218(6) of the Education Reform Act 1988<sup>(b)</sup>.

#### **Persons disqualified for being proprietors of independent schools**

**9.** A person shall be disqualified for holding or continuing to hold office as a governor of a school at any time when he is, by virtue of an order made under section 470 or section 471 of the 1996 Act, disqualified for being the proprietor of any independent school or for being a teacher or other employee in any school.

#### **Criminal convictions**

**10.**—(1) Subject to sub-paragraph (6) below, a person shall be disqualified for holding, or for continuing to hold, office as a governor of a school where any of sub-paragraphs (3) to (5) or (7) below apply to him.

(2) In cases where a member of a governing body has continued in office as a governor of a school on transition to the new framework, in this paragraph, a reference to a person’s appointment or election as governor, or becoming a governor ex officio, is a reference to his original appointment or election as a governor, or becoming a governor ex officio, within the terms of the 1996 Act.

(3) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio,

he has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(4) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, he has been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than two and a half years.

(5) This sub-paragraph applies to a person if he has at any time been convicted as aforesaid of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

(6) For the purposes of sub-paragraphs (3) to (5) above, there shall be disregarded any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom.

(7) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, or
- (b) since his appointment or election as governor, or, as the case may be, since he became a governor ex officio,

he has been convicted under section 547 of the 1996 Act (nuisance and disturbance on education premises) of an offence which took place on the premises of a school maintained by a local education authority or a grant-maintained school, and has been sentenced to a fine.

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(a) 1990 c.40.

(b) 1988 c.40. Section 218 of the 1998 Act has been amended by paragraph 17 of Schedule 30 to the 1998 Act.

### **Notification to clerk**

**11.** Where, by virtue of any of paragraphs 5 to 10—

- (a) a person becomes disqualified for holding, or for continuing to hold, office as a governor of a school, and
- (b) he is, or is proposed, to become such a governor,

he shall upon becoming so disqualified give written notice of that fact to the clerk to the governing body of the school.

### **Co-opted governor**

**12.** A person shall be disqualified for appointment as a co-opted governor of a school other than an additional co-opted governor if he is—

- (a) a registered pupil at the school;
- (b) eligible to be a staff governor or a teacher governor at the school; or
- (c) an elected member of the local education authority.

### **Parent governor**

**13.** A person shall be disqualified for appointment<sup>(a)</sup> as a parent governor of a school if he is—

- (a) an elected member of the local education authority,
- (b) an employee of the local education authority, or
- (c) an employee of the governing body of any school maintained by the local education authority,

unless he is a parent of a registered pupil at the school.

**14.** A person shall not be disqualified for continuing to hold office as a parent governor when he ceases to be a parent of a registered pupil at the school or to fulfil any of the requirements set out in paragraphs 5 or 6 of Schedule 2.

### **Partnership governors**

**15.** A person shall be disqualified for nomination or appointment as a partnership governor of a school if he is—

- (a) a parent of a registered pupil of the school;
- (b) eligible to be a staff governor or a teacher governor at the school; or
- (c) an elected member or employee of the local education authority.

### **Teacher and staff governors**

**16.** A teacher governor or a staff governor at a school shall, upon ceasing to be employed at the school, be disqualified for continuing to hold office as such a governor.

## **SCHEDULE 7**

Regulation 57

### **RESTRICTIONS ON PERSONS TAKING PART IN PROCEEDINGS OF THE GOVERNING BODY OR THEIR COMMITTEES**

#### **Interpretation**

**1.—(1)** In this Schedule any reference, however expressed—

- (a) to a meeting of a school is a reference to a meeting of the governing body, or a committee of the governing body of a school;
- (b) to a relevant person present at a meeting of a school, so far as it concerns voting, is a reference only—
  - (i) in the case of a meeting of the governing body, to a member of the governing body so present, and
  - (ii) in the case of a meeting of a committee, to a member of the committee who is entitled to vote;
- (c) to a person's spouse includes someone living with that person as if he or she were that person's spouse.

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<sup>(a)</sup> This paragraph does not apply to elected parent governors.



## Pecuniary interests

2.—(1) Subject to sub-paragraphs (5), (6) and (7), if a relevant person has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of a school at which the contract or other matter is the subject of consideration, he shall at the meeting, and as soon as practicable after its commencement, disclose that fact and withdraw from the meeting during the consideration or discussion of the contract or matter and he shall not vote on any question with respect to the contract or matter.

(2) Subject to this paragraph, a governor of a school or any member of a committee of the governing body of a school may enter into a contract with the governing body of that school from which he is entitled to profit.

(3) For the purposes of this paragraph, a person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member or he is an employee, of a corporation or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration, or
- (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration:

provided that a person shall not by virtue of this sub-paragraph be treated as having such an interest by reason only of his membership of, or employment by, any public body; or by reason of his membership of a corporation or other body if he has no financial interest in any securities of that corporation or other body.

(4) For the purposes of this paragraph, a person shall be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter if a relative (including his spouse) living with him, to his knowledge has, or would be treated as having, such an interest, direct or indirect.

(5) For the purposes of this paragraph, a member of the governing body or of a committee of the governing body of a school who is a person employed to work at the school as a teacher, or the head teacher, whether he is a governor or not, shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only—

- (a) of having an interest in the contract or matter which is no greater than the interest of the generality of teachers employed to work at the school;
- (b) of the fact that the contract or matter under consideration or discussion concerns the exercise by the governing body of any of their functions relating to the curriculum for the school; or
- (c) of the fact that the contract or matter under consideration or discussion involves expenditure by the governing body.

(6) For the purposes of this paragraph, a member of the governing body or of a committee of the governing body of a school who is a person employed to work at the school otherwise than as a teacher, shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only—

- (a) of having an interest in the contract or matter which is no greater than the interest of the generality of persons employed to work at the school otherwise than as teachers;
- (b) of the fact that the contract or matter under consideration or discussion concerns the exercise by the governing body of any of their functions relating to the curriculum for the school; or
- (c) of the fact that the contract or matter under consideration or discussion involves expenditure by the governing body.

(7) Members of the governing body shall not, by reason of their pecuniary interest in the matter, be prevented from considering and voting upon proposals for the governing body to take out insurance protecting such members against liabilities incurred by them arising out of their office and the governing body shall not, by reason of the pecuniary interest of such members, be prevented from obtaining such insurance and paying the premiums.

(8) In this paragraph, “securities” shall be interpreted in accordance with section 142 of the Financial Services Act 1986(a).

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(a) 1986 c.60.

### **Office of governor, chairman or clerk**

3.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the school at which a subject of consideration is—

- (a) his own appointment, reappointment or removal as a member of the governing body or a committee of the governing body;
- (b) his own appointment or removal from office as clerk to or chairman of the governing body or a clerk to or chairman of a committee of the governing body; or
- (c) if he is an additional co-opted governor nominated by a particular category of person, any determination under paragraph 15(1) of Schedule 9 to the 1998 Act as to the provision in the instrument of government for additional co-opted governors nominated by that category of person.

(2) In any case where sub-paragraph (1) applies, the relevant person shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.

### **Pay or appraisal of persons working at the school**

4.—(1) This sub-paragraph applies where a relevant person who is employed to work at a school other than as head teacher is present at a meeting of the school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the school.

(2) This sub-paragraph applies where a head teacher of a school is present at a meeting of the school at which a subject of consideration is his own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the person first-mentioned in that sub-paragraph shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.

## **SCHEDULE 8**

Regulation 58

### **TRANSITIONAL PROVISIONS**

#### **Qualifications and Disqualifications**

1. Regulation 15 and Schedule 6 shall apply to any member of a transitional governing body constituted under an instrument of government in accordance with regulation 18(2) of the First Transitional Regulations but shall not apply in relation to any member of—

- (a) a transitional governing body constituted under regulation 19 of the First Transitional Regulations; or
- (b) a transitional governing body, a GM transitional governing body, or a grouped transitional governing body within the meaning of the Second Transitional Regulations<sup>(a)</sup>.

2. In relation to Wales, regulation 23 and Schedule 6 of the First Transitional Regulations, and regulations 21, 40 and 53 and Schedule 6 of the Second Transitional Regulations, are revoked.

3.—(1) In relation to Wales, for regulation 13(10) of the First Transitional Regulations there is substituted the following paragraph—

“(10) This regulation is subject to regulation 13 (surplus governors) and paragraphs 1 to 10, 12, 13, 15 and 16 of Schedule 6 to the Education (School Government) (Wales) Regulations 1999 (qualifications and disqualifications).”.

(2) In relation to Wales, for regulation 33(8) of the Second Transitional Regulations there is substituted the following paragraph—

“(8) This regulation is subject to regulation 34 (surplus governors) and paragraphs 1 to 10, 12, 13, 15 and 16 of Schedule 6 to the Education (School Government) (Wales) Regulations 1999 (qualifications and disqualifications).”.

#### **Term of office**

4. A governor who continues as a governor of a school pursuant to regulation 13 of the First Transitional Regulations, or regulation 13 of the First Transitional Regulations as it applies by

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(a) The First Transitional Regulations and the Second Transitional Regulations provide for disqualification requirements in relation to members of the transitional governing bodies specified in paragraph 1(a) and (b) of Schedule 8 to follow disqualification requirements under the 1996 Act.

virtue of regulation 20 of those Regulations, shall hold office for the remainder of the term for which he was originally appointed or elected, but for no longer than 4 years from 1st September 1999.

5. Any co-opted governor (other than an additional co-opted governor) referred to in regulation 14(3), 35(1) or 47(3) of the Second Transitional Regulations shall hold office for the term of one year.

6. In relation to Wales, the following regulations are revoked—

- (a) regulation 22 of the First Transitional Regulations;
- (b) regulations 20 and 52 of the Second Transitional Regulations.

#### **Removal**

7.—(1) For the purposes of regulation 18(1), any initial foundation governor (within the meaning of the 1996 Act) on the transitional governing body of a former grant-maintained school under regulation 19 of the First Transitional Regulations shall be treated as having been appointed by the person or persons entitled immediately before 1st September 1999 to appoint foundation governors under provision included in the instrument of government (in accordance with section 228(7)(b) of the 1996 Act).

(2) The power of removal in regulation 18(1) does not apply in respect of—

- (a) a first governor within the meaning of the 1996 Act; or
- (b) a parent governor within the meaning of the 1996 Act who has been appointed rather than elected.

(3) The power of removal in regulation 18(4) does not apply in respect of any co-opted governor on transition to the new schools framework under the 1998 Act unless the governing body is constituted or partly constituted under the instrument of government.

#### **Clerks and chairmen at new schools on transition to the new framework**

8.—(1) This paragraph applies in relation to a school or proposed school—

- (a) to which regulation 13 of the School Organisation Regulations applies; or
- (b) to which regulation 13 of the Second Transitional Regulations applies.

(2) In this paragraph, “transitional governing body” has the meaning given to it in regulation 13 of the Second Transitional Regulations.

(3) Where this paragraph applies, the person who on 31st August 1999 was the clerk to or the chairman or vice-chairman of the temporary governing body (within the meaning of the 1996 Act) shall continue in office from 1st September 1999 on the temporary governing body or transitional governing body, as the case may be.

(4) Subject to sub-paragraph (3), provisions in Part IV relating to the clerk to the temporary governing body, and provisions in regulation 31 relating to the chairman and vice-chairman of the temporary governing body, shall apply in relation to the clerk, chairman and vice-chairman (as the case may be) of any school to which this paragraph applies.

#### **Clerks to degrouping schools**

9.—(1) In this regulation, “grouped school” means any school treated for the purposes of the Second Transitional Regulations as a school grouped under section 89 or 280 of the Education Act 1996 immediately before the appointed day and “grouped governing body” means the governing body of such a school as constituted under the 1996 Act or regulation 49 of the Second Transitional Regulations, as the case may be.

(2) The person who was the clerk to the grouped governing body shall act as clerk to each governing body constituted under an instrument of government who succeed them, pending appointment of each such governing body’s clerk.

#### **Miscellaneous**

10. In relation to Wales, in regulation 42(2)(b) of the Second Transitional Regulations after “paragraph 4 or 9 of” there shall be inserted “Schedule 6 to”.

## EXPLANATORY NOTE

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

These Regulations deal with the government of maintained schools and new schools in Wales, from 1st September 1999, when the new framework for schools under the School Standards and Framework Act 1998 comes into effect. They work together with Schedules 9 to 12 to that Act.

Part I provides for the regulations to come into force generally on 1st September 1999. Restrictions on who can be appointed as clerk to the governing body or to certain committees come into force on 1st April 2000. Part I also contains interpretation provisions. In particular, the general principle is that references in the regulations to governing bodies include temporary governing bodies of new schools.

The making of new instruments of government for maintained schools on transition to the new framework, and the constitution or reconstitution of governing bodies under those instruments, is dealt with in separate regulations under Schedules 9 to 12 to the 1998 Act, or, in the case of new schools, in regulations under section 44 of that Act. Part II of the Regulations makes provision for copies of the new instruments of government to be provided to governing bodies and temporary governing bodies, and to the other parties involved in making the instrument of government.

The rest of Part II applies to maintained schools which have new framework governing bodies constituted under instruments of government. It relates to provisions which may be in the instrument, having regard to the fact that the instrument may be amended in accordance with Schedule 12 to the 1998 Act after it has been made. Regulation 6 and Schedule 1 relate to provision in instruments of government for additional co-opted governors nominated by sponsors (or an Education Action Forum). Regulation 7 requires the instrument of government to be amended if there is any change in the body entitled to appoint a representative governor at a community special school. Regulation 8 requires the instrument of government to provide for appointment of a substitute foundation governor if an ex officio foundation governor cannot or will not act.

Part II also deals with appointments and election of governors at schools which have new framework governing bodies constituted under instruments of government. Regulation 9 and Schedules 2, 3 and 4 provide for new appointments of parent, partnership and co-opted governors (other than additional co-opted governors). Regulation 10 provides for notification of vacancies and appointments. Regulation 11 provides for appointments to be made in accordance with a direction given by the Assembly where joint appointors cannot agree. Regulation 12 and Schedule 5 provide for the election of governors. Regulation 13 provides for the removal of surplus governors where there are more governors of a particular type than are required by the instrument.

Part III makes provision for qualifications and disqualifications for office, term of office and resignation and removal of governors, other than temporary governors of new schools.

Regulation 15 and Schedule 6 set out disqualification provisions relating to governors, imposing a number of new disqualifications. These provisions apply to all governing bodies, except temporary governing bodies and governing bodies, which (for a short period on transition to the new framework) continued as constituted under the 1996 Act provisions by virtue of regulations under Schedule 10 to the 1998 Act.

Regulation 16 provides that generally governors hold office for 4 years. The main exceptions are for governors continuing in office on transition to the new framework, the first co-opted governors at new schools, and foundation governors appointed on or after 1st September 1999.

Regulation 17 provides that any governor can at any time resign. Regulations 18 and 19 contain new provisions about the removal of governors. Regulation 20 requires notice of resignation or removal.

Part IV provides for the appointment of clerks to governing bodies and temporary governing bodies. Clerks at community, voluntary controlled or community special schools are appointed and dismissed by the local education authority as directed by the governing body. Clerks at foundation, voluntary aided, or foundation special schools

are appointed and dismissed by the governing body. Special provisions apply where the school does not have a delegated budget and in respect of the appointment of the first clerk to a temporary governing body.

Part V provides for meetings and proceedings of governing bodies and temporary governing bodies. This Part includes provision for appointment and removal of the chairman, convening and termination of meetings, quorum, decisions to be made by the majority of members voting, access to meetings, minutes and their publication. Regulations 41–44 relate to delegation of governing body functions.

Part VI deals with committees of governing bodies and temporary governing bodies. It covers establishment and constitution of committees, including staff dismissal, dismissal appeal, pupil discipline and admissions committees, disqualification of members of committees who are not governors, clerking of committees, proceedings, minutes and access to meetings of committees.

Part VII and Schedule 7 contain new provisions relating to withdrawal from governing body or committee meetings of persons normally entitled to attend those meetings. The general principle is that where there is a conflict between the interest of such a person and the interests of the governing body, or where the principles of natural justice require a fair hearing and there is any reasonable doubt about the person's ability to act impartially, he should withdraw from the meeting and not vote.

Part VIII and Schedule 8 contain transitional provisions.