
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply only in Wales, make provision in connection with the establishment, membership and functions of foundation bodies and the steps to be taken in connection with schools joining, or leaving, a group of schools for which the foundation body acts. They also provide for the winding-up of group foundation bodies. They repeat, with some changes and additions, provisions formerly contained in the Foundation Body Regulations 1999, which are revoked.

A foundation body is a body corporate established under section 21 of the School Standards and Framework Act 1998 to perform in relation to 3 or more schools (“the group”) each of which is either a foundation or a voluntary school, the following functions, namely—

- (a) to hold property for those schools for the purposes of the schools;
- (b) to appoint foundation governors for those schools;
- (c) to promote co-operation between schools in the group.

The Regulations and the changes from the earlier Regulations, are explained in more detail below.

Regulation 2: contains definitions.

Regulation 3: provides that a school may only form part of a group and may only apply to the National Assembly for the establishment of a foundation body if it is a foundation or voluntary school or if it is a community school which the governing body proposes should become a foundation or voluntary school. A school which has a foundation already (other than a foundation body) may never form part of a group and its governing body may not propose the establishment of a foundation body.

Regulations 4 to 7, Schedule 1: deal with the establishment of foundation bodies, the making of its instrument of government and transfer of land.

Regulations 8 and 9: deal with membership of foundation bodies, quorum for its decisions, terms of office for members and other matters.

Regulations 10, 11 and 12 and Schedule 2: set out the rules for eligibility for appointment as a member of a foundation body and the circumstances in which members are disqualified for holding (or continuing to hold) office.

Regulation 13: provides that a member of a foundation body may receive only reasonable out-of-pocket expenses and must take no direct or indirect benefit from any contracts entered into by the foundation body or have any interest in any land held by the foundation body.

Regulation 14: deals with the appointment of the clerk to the foundation body.

Regulation 15: deals with the conduct of meetings of foundation bodies.

Regulation 16: makes provision for foundation bodies to publish annual reports.

Regulation 17: makes provision for the maintenance of accounts by foundation bodies.

Regulation 18: makes provision with respect to information and records.

Regulation 19: sets out the functions which are conferred on foundation bodies.

Regulation 20: sets out the powers which foundation bodies may exercise in connection with their functions.

Regulation 21: sets out the procedure for joining a group after the initial establishment of the foundation body including provision for transfer of land.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 22 and 23: set out procedures to be followed where a school wishes to leave a group including provision for transfer of land.

Regulation 24: provides for the winding-up of foundation bodies.

Regulation 25: enables the National Assembly to determine disputes between governing bodies of schools in a group for which a foundation body acts.

Regulation 26: contains provision concerning the use of land.

Regulation 27: modifies Schedule 10 to the Education Reform Act 1988 in its application to transfers of land under the Regulations.

The Regulations incorporate minor changes to reflect the fact that a school establishing, joining or leaving a foundation body may be undergoing a change of school category under the Change of Category of Maintained Schools (Wales) Regulations 2001 which come into force at the same time as these Regulations. Apart from that, the main changes from the earlier Regulations are as follows:

- (a) The new Regulations set out procedures to be followed where a school wishes to leave a group (regulations 22 and 23).
- (b) They make provision for the winding-up of foundation bodies (regulation 24).
- (c) They extend Schedule 2 (disqualification for holding office) to cover mental disorder, persons whose employment is prohibited or restricted under section 218(6) of the Education Reform Act 1988 and persons disqualified for being proprietors of independent schools by virtue of Orders made under section 470 or 471 of the Education Act 1996. In addition, under the new Regulations a member of a foundation body who (without the consent of that body) fails to attend 2 consecutive meetings of that body is disqualified for holding office for a period of 12 months.

The Regulations do not deal with the transfer of land in the case of a school which is changing its category. This is covered by the Change of Category of Maintained Schools (Wales) Regulations 2001.