
WELSH STATUTORY INSTRUMENTS

2005 No. 2912

The New Maintained Schools (Wales) Regulations 2005

PART 6

General Conduct of New Schools

Interpretation and application of Part 6

28. In this Part “proposed school” means a school which has not yet opened for which there is a temporary governing body constituted in accordance with arrangements under section 34 of the 2002 Act.

29. This Part does not apply to any committee established by the temporary governing body to exercise functions relating to the appointment, grievance, conduct and discipline, capacity, suspension or dismissal of individual members of the school staff.

Conduct of the school before the school opening date

30.—(1) Subject to paragraph (2), section 61 of the 1998 Act and sections 27 and 28 of, and Schedule 1 to, the 2002 Act apply in relation to a proposed school⁽¹⁾ with the following modifications—

- (a) references to a governing body are treated as references to a temporary governing body;
- (b) references to a maintained school are treated as including a reference to a proposed maintained school;
- (c) references to the instrument of government are treated as references to the instrument of government whether or not it has taken effect; and
- (d) section 61(3)(b) and (7) of the 1998 Act and paragraph 2(2) and (3) of Schedule 1 to the 2002 Act do not apply.

(2) The temporary governing body of a proposed school which does not have a delegated budget may not exercise any of the powers set out in paragraph 3 (3)(b) to (f) of Schedule 1 to the 2002 Act (as modified) without the prior agreement in writing of—

- (a) the local education authority in the case of a proposed school which will be a community, voluntary controlled, community special or foundation special school, a maintained nursery school or a foundation school proposals for the establishment of which were published by a local education authority; or
- (b) the promoters in the case of a proposed school which will be a voluntary aided school or a foundation school, proposals for the establishment of which were published by promoters.

(1) Section 34(7) of the 2002 Act provides that for the purposes of section 30(3) of that Act and sections 495 to 498 of the 1996 Act, the temporary governing body is to be treated as if it was the governing body at any time before the school opening date.

Conduct of the school on or after the school opening date

31.—(1) During the period—

- (a) beginning with the school opening date; and
- (b) ending with the time when the governing body are constituted for the school under an instrument of government,

Schedule 1 to the 2002 Act applies⁽²⁾ with the modifications set out in paragraph (2).

(2) The modifications are as follows—

- (a) for references to “governing body” there are substituted references to “temporary governing body”;
- (b) in paragraph 2(1) of Schedule 1 to the 2002 Act, the words “as for the time being set out in the school’s instrument of government” are omitted; and
- (c) paragraph 2(2) and (3) of Schedule 1 to the 2002 Act does not apply.

Execution of documents by the temporary governing body

32.—(1) Only the chair of the temporary governing body, or where that is not reasonably practicable the vice-chair, may make and issue instruments on behalf of the temporary governing body.

(2) Every document purporting to be an instrument made or issued by or on behalf of the temporary governing body and to be signed or executed by the chair or vice chair of the temporary governing body must be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

Preparation of the curriculum

33.—(1) The head teacher of a proposed school must, in preparing to discharge his or her functions under Part 7 of the 2002 Act in relation to the curriculum for the school, consult the temporary governing body and the local education authority.

(2) Any local education authority who have been consulted under paragraph (1) must inform the head teacher of the resources which are likely to be made available to the school, and the head teacher must have regard to any such information given.

School terms, holidays and sessions

34.—(1) In the case of a proposed school which will be a community, voluntary controlled, community special school or maintained nursery school—

- (a) the local education authority must determine the dates when the school terms and holidays are to begin and end; and
- (b) the temporary governing body must determine the times of the school sessions after consultation with the local education authority.

(2) In the case of a proposed school which will be a foundation, voluntary aided or foundation special school, the temporary governing body must determine—

- (a) the dates and times when the school terms and holidays are to begin and end; and
- (b) the times of the school sessions.

(2) Under section 34(7) of the 2002 Act, the temporary governing body of a school is to be treated for the purposes of the Education Acts as if it was the governing body during the period beginning with the school opening date and ending with the time the governing body is constituted under an instrument of government; subject to section 34(8) under which Schedule 1 does not apply to temporary governing bodies unless provided for in regulations made under section 34(5).

(3) In this regulation “the times of the school sessions” means the times at which each of the school sessions (or, if there is only one, the school session) is to begin and end on any day.

Reports and Information

35.—(1) The temporary governing body of a new school must provide the local education authority with such reports in connection with the discharge of its functions as the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of the authority’s functions.

(2) The head teacher of a new school must provide the temporary governing body or the local education authority with such reports in connection with the discharge of his or her functions as that body or the authority may require (either on a regular basis or from time to time) for the purposes of the exercise of any of their functions.

(3) Where a requirement under paragraph (2) is imposed on the head teacher by the authority—

- (a) the authority must notify the temporary governing body of that requirement; and
- (b) the head teacher must give the temporary governing body a copy of any report made by him or her in complying with it.

Consultation on expenditure by a local education authority

36. Where the proposed school does not have a delegated budget, the local education authority must consult the temporary governing body and the head teacher on the authority’s proposed expenditure on books, equipment and stationary for the school.