

## SCHEDULE 7

Regulation 35

### Qualifications and disqualifications

#### General

1. Save in the case of associate pupil governors no person is qualified to be a governor unless that person is aged 18 or over at the date of that person's election or appointment.
2. No person may at any time hold the office of more than one governor of the same school.
3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a federation does not disqualify that person from election or appointment or from continuing as a governor of any other category at that federation.

#### Mental disorder

4. A person is disqualified from holding or for continuing to hold office as a governor of a federation at any time when that person is liable to be detained under the Mental Health Act 1983<sup>(1)</sup> or under any re-enactment or statutory modification of that Act in force from time to time.

#### Failure to attend meetings

- 5.—(1) This paragraph applies to any governor who is not a governor by virtue of that person's office.

(2) A governor, who, without the consent of the governing body, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of the first such meeting that person failed to attend, is, on the expiry of that period, disqualified from continuing to hold office as a governor of that federation.

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

(4) A governor who has been disqualified as a governor of a federation under sub-paragraph (2) is not qualified for election, nomination or appointment as a governor of any category at that federation during the twelve months immediately following that person's disqualification under sub-paragraph (2).

#### Bankruptcy

6. A person is disqualified from holding or continuing to hold office as a governor of a federation if—

- (a) that person has been adjudged bankrupt or sequestration of that person's estate has been awarded and (in either case) that person has not been discharged and the bankruptcy order has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation to that person; or
- (b) that person has made a composition or arrangement with, or granted a trust deed for, that person's creditors and has not been discharged in respect of it.

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(1) 1983 c.20.

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### Disqualification of company directors

7. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when that person is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(2);
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(3);
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002(4); or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(5) (*failure to pay under county court administration order*).

### Disqualification of charity trustees

8. A person is disqualified from holding or from continuing to hold office as a governor of a federation if—

- (a) that person has been removed from the office of 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 that person was responsible or to which that person was privy, or to which that person contributed or which that person facilitated by that person's conduct; or
- (b) that person has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(6) (*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

9. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when that person is—

- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999(7);
- (b) subject to a direction of the Welsh Ministers or the Secretary of State under section 142 of the 2002 Act(8);
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(9);
- (d) disqualified from registration under Part XA of the Children Act 1989(10) for childminding or providing day care;
- (e) disqualified from registration under Part 3 of the Childcare Act 2006(11);

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(2) 1986 c.46.

(3) No. 2404 (N.I. 18).

(4) No. 3150 (N.I. 4).

(5) 1986 c.45.

(6) 2005 asp 10.

(7) 1999 c.14; and as saved by article 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No.6 Transitional Provisions and Savings) Order 2009 which is S.I. 2009/2611.

(8) Repealed for certain purposes by the Safeguarding Vulnerable Groups Act 2006 c.47 (see section 63)

(9) 2000 c.43 sections 28, 29 and 29A have been repealed for certain purposes by section 63 of the Safeguarding Vulnerable Groups Act 2006.

(10) 1989 c.41. Repealed by section 73 of the Children and Families (Wales) Measure 2010 (nawm 1).

(11) 2006 c.21.

- (f) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(12)</sup>;
- (g) subject to a direction by the appropriate authority under section 167A of the 2002 Act<sup>(13)</sup>;
- (h) by virtue of an order made under section 470 or section 471 of the 1996 Act<sup>(14)</sup>, disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school; or
- (i) disqualified from registration under Part 2 of the Children and Families (Wales) Measure 2010<sup>(15)</sup>

### **Criminal convictions**

**10.**—(1) Subject to sub-paragraph (5), a person is disqualified from holding, or continuing to hold, office as a governor of a federation where any of sub-paragraphs (2) to (4) or (6) apply to that person.

(2) 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 that person's appointment or election as governor would otherwise have taken effect or, as the case may be, on which that person would otherwise have become a governor by virtue of that person's office; or
- (b) since that person's appointment or election as governor or, as the case may be, since that person became a governor by virtue of that person's office;

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

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

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

(5) For the purposes of sub-paragraphs (2) to (4), 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 in that part of the United Kingdom under the law in force at the time the facts given rise to the offence had taken place, must be disregarded.

(6) 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 that person's appointment or election as governor would otherwise have taken effect or, as the case may be, on which that person would otherwise have become a governor by virtue of that person's office; or

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(12) 2006 c.47.

(13) Section 167A was inserted by section 169 of the Education and Inspections Act 2006 (c.40), but it is not yet in force.

(14) Repealed by section 216 of the Education Act 2002.

(15) 2010 nawm 1

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(b) since that person's appointment or election as governor or, as the case may be, since that person became a governor by virtue of that person's office;

that person has been convicted under section 547 of the 1996 Act<sup>(16)</sup> (*nuisance or disturbance on school premises*) or under section 85A of the Further and Higher Education Act 1992<sup>(17)</sup> (*nuisance or disturbance on educational premises*) of an offence and has been sentenced to a fine.

### **Governors of more than two schools**

**11.**—(1) Save in the case of associate pupil governors no person may at any time hold office as governor in more than two federations.

(2) For the purposes of sub-paragraph (1) no account is to be taken of ex officio governorships, governorships to which the New Maintained Schools Regulations apply or any appointment under sections 6, 7, 13 or 14 of the 2013 Act.

### **Failure to complete required training**

**12.**—(1) A governor, who, has remained suspended from office by virtue of regulation 4 or 5 of the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the 2013 Regulations”) for a continuous period of 6 months is, on the expiry of that period, disqualified from holding office as a governor of any school.

(2) A governor who has been disqualified as a governor of a school under sub-paragraph (1) is not qualified for election, nomination or appointment as a governor of any category at any school until such time as that governor has completed the training required by virtue of regulation 4 or 5 of the 2013 Regulations.

### **Refusal to make an application for a criminal records certificate**

**13.** A person is disqualified from holding or continuing to hold office as a governor at any time when that person refuses a request by the governing body to make an application under section 113B of the Police Act 1997<sup>(18)</sup> for a criminal records certificate.

### **Notification to clerk**

**14.** Where—

(a) by virtue of any paragraphs 6 to 11 a person is disqualified from holding, or for continuing to hold, office as a governor of a federation; and

(b) that person is, or is proposed to become, a governor;

that person must give notice of that fact to the clerk to the governing body.

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<sup>(16)</sup> As amended by paragraph 163 of Schedule 30 to the 1998 Act and by section 206 of, and Schedule 20, to the 2002 Act and by section 6 of, and Schedule 1 to, the Education and Inspections Act 2006 (c.40).

<sup>(17)</sup> 1992 c.13; inserted by section 206 of and Schedule 20 to the 2002 Act.

<sup>(18)</sup> 1997 c.50; inserted by section 163 of the Serious Organised Crime and Police Act 2005 (c.15). Subsections (2A) and (12) were inserted, and subsection (6) was amended, by the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203). Paragraph (a) of subsection (10) was substituted for paragraph (a) and (b) as originally enacted by paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c.52).