

1989 No. 1503

EDUCATION, ENGLAND AND WALES

The Education (School Government) Regulations 1989

Made - - - - - 17th August 1989

Laid before Parliament 18th August 1989

Coming into force 8th September 1989

In exercise of the powers conferred on the Secretary of State by sections 8(6), (7) and (10), 16(2), 36(2), 62 and 63 of, and paragraphs 10(4), 12(3) and 22(5) of Schedule 2 to, the Education (No. 2) Act 1986(a), the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the Education (School Government) Regulations 1989 and shall come into force on 8th September 1989.

Revocation

2. The Education (School Government) Regulations 1987(b) are hereby revoked.

Interpretation

3. Except where the context otherwise requires, in these Regulations—
- (a) “the 1986 Act” means the Education (No. 2) Act 1986;
“the 1988 Act” means the Education Reform Act 1988(c); and
“spouse” includes a woman who lives with a man as his wife;
 - (b) any reference to a school is a reference to a school or new school which is, or will be, a county, voluntary or maintained special school;
 - (c) any reference to a governing body, in relation to a school, is a reference to the governing body or temporary governing body of the school, and any reference to a governor is a reference to a member of such a governing body;
 - (d) any reference to a governing instrument, in relation to a school, is a reference to the instrument of government or arrangement under which the governing body of the school is constituted; and

(a) 1986 c.61; section 8(7) was amended by section 116 of the Education Reform Act 1988 (c.40).
(b) S.I. 1987/1359.
(c) 1988 c.40.

- (e) any reference to a regulation is a reference to a regulation of these Regulations, any reference in a regulation to a paragraph is a reference to a paragraph of that regulation and any reference in a paragraph to a sub-paragraph is a reference to a sub-paragraph of that paragraph.

PART II

PROCEEDINGS OF GOVERNING BODIES OF SCHOOLS

Disqualification from membership of governing bodies—general

4. Regulations 5 to 8 and 15 shall have effect for the purpose of prescribing the circumstances and cases in which a person is to be disqualified for holding, or continuing to hold, office as a governor of a school and the circumstances and cases so prescribed shall be the only circumstances and cases in which a person is to be disqualified for holding, or continuing to hold, office as such a governor.

Disqualification from membership of more than four governing bodies

5.—(1) A person shall be disqualified for holding office as a governor of a school if, were he to be appointed or elected to that office, he would, at the date the appointment or election would have taken effect, be a member of the governing bodies of more than four schools.

(2) Where a person is on 8th September 1989 a member of the governing bodies of more than four schools then, on that date, he shall be disqualified for continuing to hold office as a governor of those schools, without prejudice however, subject to paragraph (1), to his re-appointment or re-election as a governor of one or more thereof.

(3)(a) A person who becomes an ex officio member of the governing bodies of more than four schools shall be disqualified for continuing to hold office as such save in the case of such four or lower number of those bodies as may for the time being be designated by him for the purposes hereof by notice in writing given to the clerks to the governing bodies so designated and to the clerks to the other governing bodies of which he would otherwise have been an ex officio member.

(b) A notice under sub-paragraph (a) shall be expressed to have effect from a date not earlier than two months after the date thereof.

(4) Where a person—

(a) is a temporary governor of a school by virtue of his having been appointed under a provision made by virtue of Schedule 2 to the 1986 Act; or

(b) is a governor or temporary governor of a school ex officio;

that governorship shall be disregarded when the number of governorships is calculated for the purpose of paragraphs (1) and (2) above.

(5) Where there is a single governing body for a group of two or more schools, that group shall be treated for the purposes of this regulation as if it were a single school.

Disqualification from membership of governing bodies—bankruptcy etc.

6.—(1) Subject to the provisions of this regulation, a person shall be disqualified for holding, or for continuing to hold, office as a governor of a school if he has been adjudged bankrupt or has made a composition or arrangement with his creditors; and a governor, on becoming so disqualified, shall give written notice of the fact to the clerk to the governing body.

(2) Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease—

(a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and

(b) if the bankruptcy order is so annulled, on the date of the annulment.

(3) Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

Disqualification from membership of governing bodies—criminal convictions

7.—(1) Subject to paragraph (4) a person shall be disqualified for holding, or for continuing to hold, office as a governor of any school if—

- (a) within five years before his appointment or election would otherwise have taken effect or since his appointment or election or, as the case may be, within five years before he would otherwise have become an ex officio governor or while such a governor, 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;
- (b) within twenty years before his appointment or election would otherwise have taken effect or, as the case may be, within twenty years before he would otherwise have become an ex officio governor, he has been convicted as aforesaid and has had passed on him a sentence of imprisonment for a period of more than two and a half years; or
- (c) he has at any time been convicted as aforesaid and has had passed on him a sentence of imprisonment of not less than five years.

(2) A person shall be disqualified for holding, or for continuing to hold, office as a governor of any school if within five years before his appointment or election would otherwise have taken effect or since that appointment or election or, as the case may be, within five years before he would otherwise have become an ex officio governor of that school or while such a governor, he has been convicted of an offence under section 40 of the Local Government (Miscellaneous Provisions) Act 1982^(a) (nuisance and disturbance on education premises) which took place on the premises of a school (including a grant-maintained school) and has been sentenced to a fine.

(3) Where, by virtue of this regulation, a person becomes disqualified for holding office as a governor of any school of which he is, or was seeking to become, a governor he shall, upon becoming so disqualified, give written notice of the fact to the clerk to the governing body of the school.

(4) For the purposes of this regulation, there shall be disregarded any conviction by or before a court outside the United Kingdom of an offence in respect of conduct which, if it 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.

Tenure of office—absence from meetings

8.—(1) This regulation shall apply in the case of any governor of a school who is not an ex officio or temporary 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 twelve 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 without prejudice, however, to his re-appointment or re-election.

Chairmen and Vice-chairmen of governing bodies and meetings

9.—(1) The governing body of a school shall each school year, at their first meeting in that year or such other meeting as is specified for the purpose in the governing instrument for the school, elect a chairman and vice-chairman from among their number (subject however to paragraph (5)).

(2) In the event of a casual vacancy occurring in the office of chairman or vice-chairman, the governing body, unless they have no further meeting before that referred

^(a) 1982 c.30; section 40 was amended by section 46 of the Criminal Justice Act 1982 (c.48) and by paragraphs 29 and 90 of Schedule 12 to the Education Reform Act 1988 (c.40).

to in paragraph (1), shall at their next meeting elect one of their number (subject however to paragraph (5)) to fill that vacancy.

(3) The chairman or vice-chairman of a governing body elected in pursuance of paragraph (1) or (2) shall hold office as such until his successor has been elected in pursuance of paragraph (1) without prejudice, however, to his re-election:

Provided that such a chairman or vice-chairman shall cease to hold office as such if—

- (a) he resigns his office by written notice given to the clerk to the governing body;
- (b) he ceases to be a member thereof; or
- (c) in the case of the vice-chairman, he is elected in pursuance of paragraph (2) to fill a casual vacancy in the office of chairman.

(4) The chair at any meeting of the governing body of a school shall be taken by the chairman thereof or, in his absence, by the vice-chairman except that where both are absent those present shall elect from among their number (subject however to paragraph (5)) a person to take the chair at the meeting during such absence.

(5) A governor who is employed as a teacher or otherwise at the school in question or is a registered pupil thereat shall not be eligible for election as chairman or vice-chairman of the governing body or as chairman of a meeting thereof but, subject as aforesaid, every governor shall be so eligible.

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

Chairmen and Vice-Chairmen of temporary governing bodies and meetings

10.—(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 (5)).

(2) In the event of a casual vacancy occurring in the office of chairman or vice-chairman, the temporary governing body shall, at their next meeting, elect one of their number (subject however to paragraph (5)) to fill that vacancy.

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

- (a) he resigns his office by written notice given to the clerk to the temporary governing body;
- (b) he ceases to be a member thereof; or
- (c) in the case of a vice-chairman, he is elected in pursuance of paragraph (2) to fill a casual vacancy in the office of chairman.

(4) The chair at any meeting of the temporary governing body of a new school shall be taken by the chairman thereof or, in his absence, by the vice-chairman except that where both are absent those present shall elect from among their number (subject however to paragraph (5)) a person to take the chair at the meeting during such absence.

(5) 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 pupil at the new school or, in the opinion of the other temporary governors, likely to become such a pupil; or
- (d) a person employed 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 chairman of a meeting thereof but, subject as aforesaid, every temporary governor shall be so eligible.

Right of head teacher to attend meetings

11.—(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 regulation 14(2).

(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 regulation 14(2).

Meetings

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

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

(3) Any three members of the governing body of a school may requisition a meeting of that body; and it shall be the duty of the clerk thereof to convene a meeting which is so requisitioned.

Quorum

13.—(1) The quorum for a meeting of the governing body of a school shall, except where paragraph (2) applies, be any three members of that body or, where greater, any one third (rounded up to a whole number) of the membership thereof when complete.

(2) Where the governing instrument for a school includes a provision specifying the quorum for a meeting of the governing body of the school and that provision is different from the provision contained in paragraph (1) by reason only that the quorum specified in the governing instrument is greater than that provided for in that paragraph, the quorum specified in the governing instrument shall, provided it does not exceed two fifths (rounded up to a whole number) of the membership of the governing body of the school when complete, be the quorum for a meeting of the governing body of the school.

(3) The quorum for the purpose of—

- (a) making appointments of parent governors in accordance with any provision made by virtue of section 5 of the 1986 Act;
- (b) co-opting governors (otherwise than as foundation governors) in accordance with any provision made by virtue of section 3 of that Act, or by virtue of that section as applied by paragraph 2(1)(a) of Schedule 2 to that Act;
- (c) co-opting temporary teacher governors in accordance with paragraph 8 of Schedule 2 to that Act; or
- (d) appointing members of, or determining any question relating to, any committee established under regulation 26;

shall be any three quarters (rounded up to a whole number) of the governors entitled to vote on those respective matters.

Proceedings and minutes

14.—(1) Any question coming or arising before the governing body of a school shall be decided by a majority of the members thereof present and voting on the question at a meeting of the governing body except that, in the case of an equality of votes, the chairman shall have a second or casting vote.

(2) Subject to paragraphs (3) and (4), the provisions of the Schedule hereto shall have effect for the purpose of prescribing the only circumstances and cases in which a member of a governing body, head teacher or other person present at a meeting thereof shall be required to—

- (a) withdraw from the meeting;
- (b) not take part in the consideration or discussion of specified matters; and
- (c) in the case of a member, not vote on any question with respect to a specified matter.

(3) In the case of a person who is a registered pupil at the school, the governing instrument for the school may contain provisions specifying circumstances and cases

additional to those mentioned in the Schedule hereto, in which such a person shall act, or refrain from acting, as mentioned in paragraph (2).

(4) Where the governing body of a school are considering disciplinary action (within the meaning of paragraph 5 of the Schedule) against a teacher or other person employed at the school, against a pupil, or arising out of an alleged incident involving a pupil, nothing in the Schedule and no such provision of the governing instrument as is mentioned in paragraph (3) shall be construed as precluding the governing body, at any disciplinary hearing conducted by them (including the hearing of an appeal), from allowing—

- (a) that teacher or other person, the pupil concerned, or a parent of the pupil, to attend the hearing and to be heard in the matter;
- (b) a person who has made relevant allegations, to present those allegations at the hearing; or
- (c) a person who is a material witness, to give relevant evidence.

(5) Minutes of proceedings of meetings of the governing body of a school shall be drawn up and entered in a book kept for the purpose and shall be signed at the same or next subsequent meeting by the person who is the chairman thereof:

Provided that minutes may be entered on loose leaves consecutively numbered but in such case the person signing the minutes shall initial each leaf.

(6) On request made in that behalf by the chief education officer of 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 signed minutes of the relevant meeting or (as the case may be) of any meeting of the governing body of the school.

Tenure of office—teacher governors etc.

15.—(1) This regulation shall apply—

- (a) in the case of a teacher governor of a school other than a temporary teacher governor of a new school;
- (b) if the governing instrument for an aided or special agreement school provides for the election by persons employed at the school, otherwise than as teachers, of a governor who at the time when he is elected is so employed, in the case of a governor so elected.

(2) A governor to whom this regulation applies shall, upon his ceasing to be employed at the school, be disqualified for continuing to hold office as such a governor.

Head teacher governors

16. Where the head teacher of a school decides not to be a governor thereof, or not to continue as a governor thereof, he shall give written notice of that decision to the clerk to the governing body of the school.

Resignation and removal of governors

17. Where a governor of a school resigns his office or is removed from office, 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.

Notification of appointments and vacancies

18.—(1) Where a casual vacancy occurs among the appointed members of the governing body of a school or such a member's term of office is about to expire, the clerk thereto shall give written notice to the authority, body or persons by whom the vacancy falls, or will fall, to be filled unless they have notified him of an appointment to fill the vacancy.

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

Convening of meetings

19.—(1) Without prejudice to paragraph 2(4) of Schedule 2 to the 1986 Act, regulation 12(3) or any provision contained in the governing instrument, a meeting of the governing body of a school may be convened by the clerk thereto but he shall comply with any direction in the matter—

- (a) given by the governing body at a previous meeting; or
- (b) given by the chairman or, in his absence, the vice-chairman of the governing body, so far as such direction is not inconsistent with a direction given as mentioned in sub-paragraph (a),

(2) Every member of the governing body of a school, the head teacher (if he is not a member of the governing body) and the chief education officer of 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) written notice thereof, signed by the clerk; and
- (b) a copy of the agenda for the meeting;

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

(3) For the purposes of this regulation, written 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.

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

(5) For the purposes of paragraph (2) “head teacher” means any head teacher entitled, by virtue of regulation 11, to attend the meetings of the governing body.

Rescission and variation of resolutions

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

Public access to meetings of governing bodies

21. Any question whether any person who is not—

- (a) a member of the governing body of a school;
- (b) a head teacher entitled, under regulation 11, to attend meetings of the governing body of a school; or
- (c) the clerk to the governing body of a school;

should be allowed to attend a meeting of the governing body of the school, shall be determined by that body.

Record of persons present at a meeting

22. The names of the members of the governing body of a school present at a meeting of that body and of any head teacher (not being a governor) who attends such a meeting shall be recorded alongside the minutes of the meeting drawn up and entered as mentioned in regulation 14(5).

Power of chairman or vice-chairman of governing body to act in cases of urgency

23.—(1) The chairman or, if he cannot be contacted, the vice-chairman of the governing body of a school shall, in the circumstances mentioned in paragraph (2) below, have power to discharge, as a matter of urgency, any function of the governing body of the school.

(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, his parent, or a person employed at the school.

(3) In paragraph (2) above, "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 to be held.

Publication of minutes and papers

24.—(1) Subject to paragraph (2), a copy of—

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

shall, in each case as soon as may be, be made available at the school by the governing body 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 at, or proposed to be employed at, the school;
- (b) a named pupil at, or candidate for admission to, the school; or
- (c) any matter which, by reason of its nature, the governing body are satisfied should be dealt with on a confidential basis.

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

PART III

DELEGATION OF FUNCTIONS AND ESTABLISHMENT OF COMMITTEES

Delegation of functions

25.—(1) Subject to paragraphs (3) and (4), the governing body of a school may resolve to delegate to a committee established in accordance with regulation 26 or to any member of the governing body, or to the head teacher, if he is not such a member, any of its functions other than those listed in paragraph (2).

(2) The functions which may not be delegated under paragraph (1) are functions relating to the powers conferred and the duties imposed on governing bodies by or under—

- (a) section 14 of the Education Act 1944^(a) (which relates to restrictions on discontinuance of voluntary schools by governors);
- (b) sections 6 to 8 of the Education Act 1980^(b) (which relate to admission to schools);
- (c) section 13 of the Education Act 1980^(c) (which relates to establishment and alteration of voluntary schools);
- (d) section 14 of the Education Act 1980 (which relates to approval of school premises);
- (e) sections 3 to 6 of the 1986 Act (which relate to the appointment of governors);
- (f) sections 18 and 19 of the 1986 Act^(d) (which relate to the curriculum);

^(a) 1944 c.31; section 14 was amended by section 14 of, and Part II of Schedule 2 to, the Education Act 1946 (c.50) and by paragraph 1 of Schedule 1 to the Education Act 1980 (c.20).

^(b) 1980 c.20; section 6 was amended by section 30 of the Education Reform Act 1988 (c.40), and section 8(3) by section 31(2) of that Act.

^(c) Section 13 was amended by section 31 of the Education Reform Act 1988 (c.40).

^(d) Section 18 was amended by paragraph 99 of Schedule 12 and by Part II of Schedule 13 to the Education Reform Act 1988 (c.40), and section 19(3) was repealed by Part II of Schedule 13 to that Act.

- (g) section 21(2) and (4) of the 1986 Act^(a) (which relate to the times of school sessions and the dates of school terms and holidays);
- (h) section 22(b)(i) of the 1986 Act (which relates to the governing body's statement of general principles concerning pupil discipline);
- (i) section 30 of the 1986 Act (which relates to the governors' annual report to parents), insofar as the approval of the governors' report is concerned;
- (j) sections 44 and 45 of the 1986 Act (which relate to the prohibition of political indoctrination and to the balanced treatment of political issues);
- (k) section 46 of the 1986 Act (which relates to sex education);
- (l) section 1 of the 1988 Act (which relates to the curriculum);
- (m) section 6(3) of the 1988 Act (which relates to collective worship);
- (n) section 10 of the 1988 Act (which relates to collective worship, religious education, implementation of the National Curriculum and external qualifications);
- (o) section 12(1) of the 1988 Act (which relates to applications to advisory councils concerning the requirements for Christian collective worship in county schools);
- (p) section 22(1) of the 1988 Act (which relates to the provision of information);
- (q) sections 26 to 32 of the 1988 Act (which relate to admission of pupils to county and voluntary schools);
- (r) section 60 of the 1988 Act (which relates to the initiation of procedure for acquisition of grant-maintained status);
- (s) section 110 of the 1988 Act (which relates to policies on charges and remissions);
- (t) regulations 9(1) and (2) and 10(1) and (2);
- (u) regulation 12; and
- (v) regulation 25(1).

(3) The functions of the governing body of a school under paragraph 8 of Schedule 3 to the 1988 Act (which relates to the dismissal of staff) shall not be delegated to an individual, but may (subject to regulation 26(5)) be delegated to a committee.

(4) The functions of the governing body of a school conferred by or under sections 24 to 26 of the 1986 Act (which relate to the reinstatement of excluded pupils) shall not be delegated to an individual but may (subject to regulation 26(6)) be delegated to a committee.

Establishment of committees

26.—(1) Where the governing body of a school resolve under regulation 25 to delegate any function to a committee, that committee shall be established in accordance with this regulation.

(2) Subject to paragraphs (3) to (7), the constitution, membership and proceedings of any such committee shall be determined by the governing body.

(3) The membership of any such committee may include persons who are not members of the governing body:

Provided that any members of such a committee who are not members of the governing body shall not be entitled to vote in any proceedings of the committee.

(4) The chair at any meeting of a committee 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.

(5)(a) A committee to which any functions are delegated under regulation 25(3) shall include not less than three members of the governing body and, where a committee is established to take any initial or preliminary decision as to the dismissal of any member of staff (referred to below in this paragraph as a "first committee"), no member of that committee shall take part in the proceedings of any committee established to consider any appeal against that decision (referred to below in this paragraph as an "appeal committee"); and

^(a) Section 21 was substituted by section 115 of the Education Reform Act 1988 (c.40).

- (b) the membership of an appeal committee shall include no fewer members of the governing body than that of the first committee the decision of which is subject to appeal;

Provided that where fewer than six governors are qualified for membership of any committee established in accordance with this paragraph, or it is otherwise not reasonably practicable for the requirement that the membership of any such committee should include three members of the governing body to be satisfied, the membership of any first committee and of any appeal committee shall include such numbers of members of the governing body as the governing body may determine subject, however, to sub-paragraph (b).

(6) A committee to which any functions are delegated under regulation 25(4) shall include not less than three members of the governing body, none of whom shall be the head teacher.

(7) Regulations 6, 7, 9(5), 11(2), 14, 19(2) to (5) (other than the requirement for notice of meetings to be signed by the clerk), 22, 24 and the Schedule hereto shall apply to membership of any committee and to the proceedings thereof as they apply to membership of the governing body and to proceedings thereof.

(8) A head teacher of a school, whether or not he is a governor thereof, shall be entitled to attend any meeting of any committee of the governing body thereof subject, however, to regulation 14(2) as applied by paragraph (7).

Reports to the governing body

27. Where any functions of the governing body of a school have been delegated to a member thereof, the head teacher or a committee established in accordance with regulation 26, that member, head teacher or committee shall report any action or decision taken in relation to those functions to the next meeting of the governing body.

PART IV

SELECTION PANELS FOR THE APPOINTMENT OF HEAD TEACHERS AND DEPUTY HEAD TEACHERS

General

28. This part shall apply in relation to any selection panel constituted in accordance with the provision made by the articles of government for any county, controlled, special agreement or maintained special school by virtue of section 36(1) of, or paragraph 22 of Schedule 2 to, the 1986 Act.

Proceedings of Selection Panel

29.—(1) The proceedings of a selection panel shall be under the control of the panel and any question coming or arising before such a panel shall be decided by a majority of its members (including any not voting on the question), with no member of the panel having a second or casting vote.

(2) Meetings of such panels shall be requisitioned by the local education authority concerned as occasion may require:

Provided that the authority shall give the governing body of the school reasonable notice of any such meeting.

(3) Any question whether a person who is neither a member of such a panel nor the chief education officer of the local education authority concerned (or a member of his department nominated by him), should be entitled to attend any proceedings of the panel (including interviews), shall be decided by the panel.

PART V

POWER OF LOCAL EDUCATION AUTHORITY TO ACT WITHOUT CONSULTING GOVERNING BODY

Exclusion of pupils from school

30. Where—

- (a) a pupil has been excluded from a school in circumstances in which that pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination; and
- (b) the local education authority concerned wish to consult the governing body of the school with a view to exercising, as a matter of urgency, any power vested in the authority (by virtue of section 24 or 25 of the 1986 Act) of directing the head teacher of the school to reinstate the pupil, but are unable to contact the chairman or vice-chairman of the governing body;

the authority may direct the head teacher to reinstate the pupil without consulting the governing body.

Appointment of teachers at certain schools

31. Where, in the case of any county, controlled, special agreement or maintained special school, a local education authority—

- (a) are minded to appoint a particular person in their employ to fill a teaching post at the school in accordance with the procedure laid down by virtue of section 38(4) of the 1986 Act, or in accordance with that procedure as applied in relation to new schools by paragraph 24(1) of Schedule 2 to that Act, (the authority having had regard to any specification provided by the governing body of the school under that procedure); and
- (b) require (in accordance with that procedure) to consult the governing body of the school with a view to appointing that person to that post as a matter of urgency, but are unable to contact the chairman or vice-chairman of the governing body;

the authority may proceed with the appointment of that person to that post without consulting the governing body.

SCHEDULE

Regulation 14

WITHDRAWAL FROM MEETINGS

1.—(1) In this Schedule any reference to a person present at a meeting of the governing body of a school is a reference to a member thereof, head teacher or other person so present except that, so far as concerns voting, it is a reference only to a member thereof so present.

(2) In relation to the person who is the clerk to the governing body, paragraph 5(1)(e) of this Schedule shall have effect but none of the other provisions of this Schedule relating to withdrawal from meetings shall have effect except that, during any period for which the withdrawal of the clerk would be required but for this sub-paragraph, he shall not act in any capacity other than that of clerk.

2.—(1) Subject to sub-paragraph (4), if a person has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the governing body 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 the fact and—

- (a) take no part in the consideration or discussion of the contract or matter;
- (b) unless the governing body otherwise allow, withdraw from the meeting during such consideration or discussion; and
- (c) not vote on any question with respect to the contract or matter.

(2) 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 of a company 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 so having such an interest by reason only of his membership of, or employment under, any public body or by reason only of his membership of a company or other body if he has no financial interest in any securities of that company or other body.

(3) 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.

(4) For the purposes of this paragraph, a governor of a school who is a teacher at that school, 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, proposed contract or matter which is no greater than the interest of the generality of teachers at the school;
- (b) of the fact that the contract, proposed contract or matter under consideration or discussion concerns the exercise by the governing body of any of their functions relating to—
 - (i) the curriculum for the school; or
 - (ii) the management of the school's budget share under any scheme prepared by the local education authority under section 33 of the Education Reform Act 1988(a);or
- (c) of the matter under consideration or discussion being whether to pass a resolution (whether a first or second resolution) under section 60(1)(a) of the Education Reform Act 1988 (which relates to the initiation of procedure for acquisition of grant-maintained status).

3.—(1) This paragraph shall apply if a person is present at a meeting of the governing body of a school (including a meeting of a selection panel) at which the subject of consideration is, in the case either of the person himself or of a relative (including his spouse) living with him—

- (a) that person's appointment to a post as a teacher or otherwise at the school; or
- (b) where that person is employed as a teacher or otherwise at the school, his transfer from one post to another or his promotion or retirement.

(2) The person first mentioned in sub-paragraph (1) shall—

- (a) take no part in the consideration or discussion of the matter in question;
- (b) unless the governing body otherwise allow, withdraw from the meeting during such consideration or discussion; and
- (c) not vote on any question with respect to that matter.

(3) In this paragraph, "selection panel" means—

- (a) a selection panel such as is referred to as in regulation 28; and
- (b) a selection panel appointed under paragraph 1(8) of Schedule 3 to the 1988 Act (which relates to the appointment of head teachers and deputy head teachers in schools during financial delegation).

4.—(1) This paragraph shall apply where a person who himself, or whose relative (including his spouse) living with him, is employed as a teacher or otherwise at a school ("the relevant employee") is present at a meeting of the governing body thereof (including a meeting of a selection panel) at which the subject of consideration is the transfer from one post to another, dismissal, promotion, retirement or suspension of another person so employed, if the said transfer, dismissal, promotion, retirement or suspension would result in a vacant post for which the relevant employee could be a candidate.

(2) The person first mentioned in sub-paragraph (1) shall—

- (a) take no part in the consideration or discussion of the matter in question;
- (b) unless the governing body otherwise allow, withdraw from the meeting during such consideration or discussion; and
- (c) not vote on any question with respect to that matter.

(3) In this paragraph, "selection panel" has the same meaning as in paragraph 3.

(a) 1988 c.40.

5.—(1) Subject to sub-paragraph (2), if a person—

- (a) being a pupil or his parent, is present at a meeting of the governing body of a school at which the admission of, or disciplinary action against, that pupil is the subject of consideration;
- (b) being a pupil or his parent, is present at such a meeting at which, arising out of an alleged incident involving that pupil, disciplinary action against another pupil is the subject of consideration;
- (c) having made allegations, or having been a witness of an alleged incident, is present at a meeting at which, arising out of those allegations or that incident, disciplinary action against a pupil or against a person employed as a teacher or otherwise at the school is the subject of consideration;
- (d) having been concerned in a capacity other than that of a governor (whether as a head teacher or otherwise) with disciplinary action taken against a pupil or against a person employed as a teacher or otherwise at the school, is present at such a meeting at which an appeal against that disciplinary action is the subject of consideration; or
- (e) being a person employed as a teacher or otherwise at the school or being the clerk to the governing body of the school, is present at any such meeting at which disciplinary action against him is the subject of consideration;

he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

(2) The provisions of sub-paragraph (1) relating to withdrawal during the discussion or consideration of the matter referred to in sub-paragraph (1)(c) shall not have effect—

- (a) in relation to the chief education officer or the representative of that officer, where he is such a person as is mentioned above by reason only of sub-paragraph (1)(c); or
- (b) in relation to the head teacher where he is exercising his right of attendance under paragraph 8(9) of Schedule 3 to the 1988 Act (which relates to the dismissal of staff);

but they shall not vote on any question with respect to the matter.

(3) In this and the following paragraph any reference to disciplinary action includes a reference to suspension and expulsion or dismissal.

6. If a person who is a relative (other than a parent) of a pupil is present at a meeting of the governing body of a school at which the subject of discussion is—

- (a) the admission of, or disciplinary action against, that pupil; or
- (b) disciplinary action against another pupil arising out of an alleged incident involving the pupil first mentioned in this paragraph;

he shall, at the meeting and as soon as practicable after its commencement, disclose the relationship.

7. Without prejudice to the preceding provisions of this Schedule, if a person employed as a teacher or otherwise at a school is present at a meeting of the governing body thereof at which—

- (a) his conduct;
- (b) his continued employment at the school;
- (c) the appointment of a successor to him;

is the subject of consideration or discussion he shall (where a member of the governing body) not vote on any question with respect to that matter and (whether or not such a member), save and so far as the governing body otherwise allow, shall—

- (i) take no part in the consideration or discussion of the matter in question; and
- (ii) withdraw from the meeting during such consideration or discussion.

8. References in this Schedule to a head teacher include (where the context so admits) references to a head teacher entitled to attend the meetings of the governing body by virtue of regulation 11.

16th August 1989

Angela Rumbold
Minister of State, Department of Education and Science

17th August 1989

Ian Grist
Parliamentary Under Secretary of State,
Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply (except where the context otherwise requires) in relation to all county, voluntary and maintained special schools. The Regulations make provision as to the meetings and proceedings of the governing bodies of such schools. Provision is also made as to the delegation of functions by governing bodies, and the establishment of committees by them (Part III); as to the meetings and proceedings of selection panels (constituted in relation to the appointment of head teachers and deputy head teachers at county, controlled, maintained special and special agreement schools) (Part IV); and as to the circumstances in which a local education authority, where they would otherwise have been required to consult the governing body of a school before taking a particular step, may proceed without such consultation (Part V). The Regulations revoke the Education (School Government) Regulations 1987 ("the 1987 Regulations") (regulation 2), and re-enact them with additions and amendments. Major amendments and new provisions are noted below. Except where the context otherwise requires, any reference to a "governing body" is a reference to the governing body of a county, voluntary or maintained special school; "governing body" includes a temporary governing body; and "school" includes a new school as defined in paragraph 1 of Schedule 2 to the Education (No. 2) Act 1986 (regulation 3).

Regulations 4 to 8 and 15 make provision as to the circumstances and cases in which persons are, or may become, disqualified from holding office as governors or temporary governors. These circumstances and cases are exhaustive and cannot be extended under the instrument of government or arrangement for a school (regulation 4). Regulation 7, which relates to disqualification of persons with criminal convictions, extends the provision contained in the 1987 Regulations so as to apply to convictions outside the United Kingdom, and introduces a scale of length of disqualification related to the seriousness of the offence.

Regulations 9 and 10 make provision with respect to the election by governing bodies and temporary governing bodies of a chairman and vice-chairman, and regulation 11 makes provision with respect to the rights of head teachers to attend meetings of governing bodies and temporary governing bodies.

Regulations 12, 13, 14, 19, 22 and the Schedule make provision as to the meetings and proceedings of governing bodies and temporary governing bodies including, in particular, provisions as to the convening of meetings; as to the quorum for meetings of governing bodies and when governors meet for the purpose of making certain appointments and co-options or establishing committees; as to the keeping of minutes; and as to the circumstances and cases in which governors (and others) present at meetings are to withdraw or in which their participation in the proceedings is otherwise restricted. The provisions previously contained in the 1987 Regulations are amended to provide for circumstances in which head and other teachers are not to be regarded as having a pecuniary interest.

Regulations 16, 17 and 18 make provision requiring a head teacher's decision not to be a governor (or a temporary governor) and any resignation or removal of a governor (or temporary governor) to be notified to the clerk to the governing body (or temporary governing body) concerned, and for him to be notified of appointments and vacancies.

Regulation 20 makes provision as to the rescission and variation of resolutions.

Regulation 21 provides for any question as to who (apart from those specified as entitled to attend) should be allowed to attend meetings of governing bodies and temporary governing bodies to be decided by the governing body or temporary governing body concerned.

Regulation 23 makes provision for enabling the functions of a governing body or temporary governing body to be discharged, as a matter of urgency, by the chairman or vice-chairman thereof in the circumstances mentioned in that regulation.

Regulation 24 provides for minutes and other papers of the governing body of a school to be available for inspection at the school, subject to the safeguards mentioned therein.

Regulations 25 to 27 (which are additional to the provisions contained in the 1987 Regulations) make provision for delegation and committees. Governing bodies may delegate to a committee, a single governor or the head teacher (whether he is a governor or not) any of their functions other than those listed. Decisions as to the dismissal of staff in a school which has a delegated budget, or as to the reinstatement of excluded pupils, may be delegated to a committee, but not to an individual (regulation 25).

Subject to certain restrictions, it is for the governing body to determine the terms on which they delegate any functions. The membership of committees may include non-members of the governing body, but such persons are not to have a vote. Special provisions apply to committees considering the dismissal of staff or the reinstatement of excluded pupils (regulation 26).

Regulation 27 provides for a report to be made to the next meeting of the governing body by any person or committee to whom functions are delegated.

Regulations 28 and 29 make provision as to the meetings and proceedings of selection panels in schools which do not have a delegated budget.

Regulations 30 and 31 contain provisions enabling a local education authority, in cases of urgency, to direct a head teacher to reinstate a pupil who has been excluded from school (regulation 30), and enabling them to make certain staff appointments in schools which do not have a delegated budget (regulation 31), in either case without consulting the governing body or temporary governing body of the school concerned.