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STATUTORY INSTRUMENTS

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**1999 No. 2242**

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

**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.

- (a) (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>(1)</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>(2)</sup>.

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

(2) 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.

(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).

(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>(3)</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

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

- (g) making arrangements for an Education Action Forum<sup>(4)</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.

(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,

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(4) 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.

- (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)(5) 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);
- (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);

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(5) 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.

- (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)(6) 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)(7);
- (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(8) (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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(6) 'Section 90(5) of the 1998 Act alters the effect of section 90(1) in relation to Wales.

(7) 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.

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

- (a) (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.