
STATUTORY INSTRUMENTS

1999 No. 2243

The Education (New Schools) (Wales) Regulations 1999

PART III

COMPOSITION OF TEMPORARY GOVERNING BODIES

Interpretation

9.—(1) In this Part—

- (a) “new school” has the meaning in section 72(3) of the 1998 Act and shall not include any school or proposed school to which regulation 13 of the School Organisation Regulations or regulation 13 of the Second Transitional Regulations applies;
- (b) “relevant paragraphs” has the meaning in regulation 10(1).

(2) In these Regulations—

“temporary co-opted governor” means a person who is appointed to be a member of the temporary governing body of a new school by being co-opted by members of the temporary governing body who are not themselves temporary co-opted governors;

“temporary foundation governor” means a person appointed to be a member of the temporary governing body of a new school otherwise than by a local education authority, in accordance with regulation 11;

“temporary LEA governor” means a person appointed to be a member of the temporary governing body of a new school by the local education authority;

“temporary parent governor” means a person appointed to be a member of the temporary governing body of a new school in accordance with regulation 12;

“temporary partnership governor” means a person appointed to be a member of the temporary governing body of a new school in accordance with regulation 13;

“temporary staff governor” means a person appointed to be a member of the temporary governing body of a new school in accordance with regulation 14;

“temporary teacher governor” means a person appointed to be a member of the temporary governing body of a new school in accordance with regulation 15.

Constitution of temporary governing body

10.—(1) Subject to this regulation and regulations 11 to 22, the temporary governing body of a new school shall be constituted in accordance with such of paragraphs 9 to 14 of Schedule 9 to the 1998 Act (“the relevant paragraphs”) as are applicable having regard to the category of the school or proposed school.

(2) For the purposes of the application of paragraph (1), the relevant paragraphs shall apply with the following modifications—

- (a) the expressions “co-opted governor”, “foundation governor”, “LEA governor”, “parent governor”, “partnership governor”, “staff governor” and “teacher governor” shall be

treated as references to the corresponding category of temporary governor within the meaning of regulation 9(2);

- (b) references in the relevant paragraphs to “governing body” or “governors” shall be treated as references to “temporary governing body” or “temporary governors”, as the case may be;
- (c) references in the relevant paragraphs to “a representative governor” shall be treated as references to “a temporary representative governor”;
- (d) references in the relevant paragraphs to “additional governors” shall be treated as references to any temporary co-opted governors required by regulation 18, 19 or 20;
- (e) references to a school or a school of any category, shall include a reference to a proposed school or a proposed school of that category, as the case may be;
- (f) references to a school being established in a hospital (or not established in a hospital) shall include a reference to a school which it is proposed to establish in a hospital (or otherwise than in a hospital);
- (g) the reference in paragraph 10(6)(a) of Schedule 9 to the 1998 Act to “matters in respect of which the school is specially organised” shall be treated as a reference to matters in respect of which the proposed school will be specially organised;
- (h) paragraph 14(4) of that Schedule shall not apply;
- (i) in relation to the constitution of the temporary governing body of a new school, the new school shall be treated as having as registered pupils the number of pupils determined from the proposals for the establishment of the school.

Temporary foundation governors

11. The temporary foundation governors of a new school shall be appointed—

- (a) where the new school has, or the proposals for its establishment indicate that it will have, a particular religious character, for the purpose of securing that that character is established and developed; and
- (b) where the new school has or will have a trust deed, for the purpose of securing that the new school is established and conducted in accordance with that deed.

Temporary parent governors

12.—(1) Subject to the following paragraphs of this regulation, the temporary parent governors of a new school shall be appointed—

- (a) where the new school is or will be a community, voluntary controlled, community special school or foundation special school, or a foundation school proposals for the establishment of which were published by a local education authority, by the local education authority; and
- (b) where it is or will be a voluntary aided school, or a foundation school proposals for the establishment of which were published by promoters, by the promoters.

(2) Where one or more maintained schools have been, or are to be, discontinued, and the registered pupils at such school or schools, or a substantial number of those pupils, are expected to transfer to a new school,

- (a) the local education authority, where the new school is, or will be a community, community special, voluntary controlled school or foundation special school, or a foundation school proposals for the establishment of which were published by a local education authority, or

(b) the promoters, where the new school is or will be a voluntary aided school or a foundation school proposals for the establishment of which were published by promoters, may provide for the governing body of the discontinued school (or, as the case may be, any of the governing bodies of the discontinued schools) to appoint some or all of the temporary parent governors of the new school.

(3) No person shall be appointed as a temporary parent governor of a voluntary controlled school by a local education authority, and no provision referred to in paragraph (2) above shall be made in respect of a voluntary controlled school, unless the local education authority has first consulted the promoters.

(4) Subject to paragraph (5), no person shall be appointed as a temporary parent governor unless—

- (a) he is the parent of a child who is or is likely to become a registered pupil at the school; or
- (b) where it is not reasonably practicable to appoint such a person, he is the parent of a child of compulsory school age.

(a) (5) (a) No person shall be appointed as a temporary parent governor of a school which is or will be a community or foundation special school not established in a hospital unless he is—

- (i) the parent of a child who is or is likely to become a registered pupil at the school; or
- (ii) a person who is the parent of a child of compulsory school age with special educational needs; or
- (iii) a person who is a parent of a person of any age with special education needs; or
- (iv) a person who is the parent of a child of compulsory school age.

(b) A person referred to in sub-paragraph (ii), (iii) or (iv) of paragraph (a) above shall only be appointed if it is not reasonably practicable to appoint a person referred to in the provision in that sub-paragraph which immediately precedes it.

Temporary partnership governors

13.—(1) Subject to paragraphs (2) and (3), temporary partnership governors shall be persons nominated as such by the promoters and appointed as such by the local education authority.

(2) In the case of a new school proposals for the establishment of which were published by a local education authority, temporary partnership governors shall be appointed by the local education authority.

(3) No person shall appoint, or nominate a person for appointment as, a temporary partnership governor unless he is satisfied that the nominee or the appointee appears to be—

- (a) from the community which the new school serves or will serve; and
- (b) committed to the good government and success of the school.

Temporary staff governors

14.—(1) Notwithstanding provision to the contrary in the relevant paragraphs, and subject to paragraph (2)—

- (a) the local education authority, where the new school is or will be a community, community special, voluntary controlled or foundation special school, or a foundation school proposals for the establishment of which were published by a local education authority, or
- (b) the promoters, where the new school is or will be a voluntary aided school or a foundation school proposals for the establishment of which were published by promoters,

shall—

- (i) determine whether a temporary staff governor should be included on the temporary governing body of the new school in accordance with Schedule 9 to the 1998 Act (as modified by these Regulations); and, if they so determine,
- (ii) appoint a temporary staff governor to the temporary governing body.

(2) No person shall be appointed under paragraph (1) as a temporary staff governor unless he is employed to work at a school maintained by a local education authority at the time when he is appointed.

Temporary teacher governors

15.—(1) Subject to the following paragraphs of this regulation—

- (a) in the case of a new school which is or will be a community, community special, voluntary controlled, or foundation special school, or a foundation school proposals for the establishment of which were published by a local education authority, a temporary teacher governor shall be co-opted as such by a resolution passed at a meeting of those temporary governors who are not themselves temporary co-opted governors;
- (b) in the case of a new school which is or will be a voluntary aided school or a foundation school proposals for the establishment of which were published by promoters, a temporary teacher governor shall be a person nominated as such by the promoters, and appointed as such by the local education authority.

(2) Where one or more maintained schools have been, or are to be, discontinued, and the registered pupils at such school or schools, or a substantial number of those pupils, are expected to transfer to a new school,

- (a) the local education authority, where the new school is, or will be a community, community special, voluntary controlled or foundation special school, or a foundation school proposals for the establishment of which were published by a local education authority, or
- (b) the promoters, where the new school is a voluntary aided school or a foundation school proposals for the establishment of which were published by promoters,

may provide for the governing body of the discontinued school (or, as the case may be, any of the governing bodies of the discontinued schools) to appoint some or all of the temporary teacher governors of the new school.

(3) No provision referred to in paragraph (2) above shall be made in respect of a voluntary controlled school unless the local education authority has first consulted the promoters.

(4) No person may be co-opted, nominated or appointed as a temporary teacher governor under this regulation, unless he is employed as a teacher at a school maintained by a local education authority.

Matters relating to the head teacher as governor

16. Notwithstanding provision to the contrary in the relevant paragraphs—

- (a) a head teacher may become a member of the temporary governing body by notifying the local education authority in writing at any time after his appointment as head teacher that he wishes to act as a temporary governor; and
- (b) having done so a head teacher shall be treated as an ex officio member of the temporary governing body⁽¹⁾.

(1) Regulation 25 does not permit the head teacher to resign as a temporary governor.

Size of the governing body

17.—(1) Subject to paragraph (2) wherever the relevant paragraphs provide a discretion as to the number of governors of a particular category to be included on the governing body, the number of temporary governors of the corresponding category included on the temporary governing body shall be the lower number permitted under the relevant paragraphs.

(2) At any new school, whether or not there shall be a temporary staff governor shall be determined in accordance with regulation 14.

(3) For the purposes of calculating the number of temporary foundation governors required at a voluntary aided school under the relevant paragraphs, it shall be assumed that a head teacher has been appointed and is a member of the temporary governing body.

Temporary co-opted governors nominated by sponsors

18.—(1) This regulation applies if the instrument of government made for a new school pursuant to regulation 31 provides for the permanent governing body to include one or more (in this regulation referred to as “the relevant number of”) co-opted governors for whose appointment nominations are to be sought from the sponsor or from amongst the sponsors of the school.

(2) If this regulation applies, those members of the temporary governing body who are not themselves temporary co-opted governors shall appoint, in addition to the governors otherwise required by this Part, the relevant number of temporary co-opted governors nominated by any one or more sponsors of the new school.

Temporary co-opted governor nominated by an Education Action Forum

19. If the instrument of government made for a new school pursuant to regulation 31 provides for the permanent governing body to include a co-opted governor for whose appointment nominations are to be sought from an Education Action Forum, those members of the temporary governing body who are not themselves temporary co-opted governors shall appoint, in addition to the governors otherwise required by this Part, a temporary co-opted governor nominated by the Education Action Forum.

Temporary co-opted governor nominated by one or more minor authorities

20.—(1) This regulation applies if the instrument of government made, or to be made, for a new school pursuant to regulation 31 is required by paragraph 15 of Schedule 9 to the 1998 Act to provide for a co-opted governor for whose appointment nominations are to be sought from the minor authority or (as the case may be) from one or more of the minor authorities in relation to the school.

(2) If this regulation applies, those members of the temporary governing body who are not themselves temporary co-opted governors shall appoint, in addition to the governors otherwise required by this Part, a temporary co-opted governor nominated by the minor authority (or, as the case may be, by one or more of the minor authorities) for the area which it appears to the local education authority will be served by the new school when it is a maintained school.

Requirement in appointing all temporary governors

21.—(1) Where any person is appointing a person as a temporary governor of a new school, he shall have regard to the desirability of that person being suitably experienced.

(2) For the purposes of paragraph (1) a person is suitably experienced—

- (a) if he has served as a governor or temporary governor of a school maintained by a local education authority or a grant-maintained school within the meaning of the 1996 Act; and

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- (b) in particular in a case where registered pupils at another such school which has been, or is to be, discontinued are expected to transfer to the new school, if he has served as a governor or temporary governor of that other school.

Joint appointments

22. If—

- (a) a temporary governor is to be appointed by persons acting jointly, and
- (b) those persons fail to make an agreed appointment,

the appointment shall be made by, or in accordance with a direction given by, the Assembly.