

## SCHEDULE 1

Regulation 10(1)

### Appointment of Temporary Community Governors at Community Special Schools or Foundation Special Schools

1. Subject to paragraphs 2 and 3, the local education authority must appoint temporary community governors to the temporary governing body of a new school which is or will be a community special school or foundation special school, in accordance with regulation 10(1).

2.—(1) In relation to a new school which is or will be a community special school or a foundation special school established in a hospital, the local education authority must:

(a) designate:

- (i) one or more primary care trusts;
- (ii) the National Health Service Trust; or
- (iii) the NHS foundation trust;

with which the new school is most closely connected, as the appropriate body; and

(b) invite the appropriate body so designated to nominate (and if more than one, jointly) a person to be appointed as one of the temporary community governors.

(2) For the purposes of this paragraph:

“National Health Service Trust” means a body established by the Secretary of State under section 25 of the National Health Service Act 2006<sup>(1)</sup>;

“NHS foundation trust” has the same meaning as in section 30(1) of the National Health Service Act 2006; and

“primary care trust” means a body established or continuing under section 18 of the National Health Service Act 2006.

3. In relation to a new school which is or will be a community special school or foundation special school not established in a hospital, the local education authority must appoint as one of the temporary community governors:

- (a) if a voluntary organisation is designated by the local education authority as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised, a person (if any) nominated by that organisation; or
- (b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a person (if any) nominated by those organisations acting jointly.

## SCHEDULE 2

Regulation 25

### Qualifications and Disqualifications

#### General

1.—(1) A person is disqualified from holding, or from continuing to hold, office as a temporary governor of a new school at any time when he is or is likely to become a registered pupil at the new school.

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(1) 2006 c.41.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) No person is qualified to be a temporary governor unless he is aged 18 or over at the date of his election or appointment.

(3) Sub-paragraphs (1) and (2) do not apply to a temporary associate member appointed under regulation 14.

2. No person may at any time hold more than one temporary governorship of the same new school.

3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a temporary governor of a particular category at a new school does not disqualify him from election or appointment or from continuing as a temporary governor of any other category at that school.

### **Mental disorder**

4. A person is disqualified from holding or continuing to hold office as a temporary governor of a new school at any time when he is detained under the Mental Health Act 1983(2).

### **Bankruptcy**

5. A person is disqualified from holding or continuing to hold office as a temporary governor of a new school if—

- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
- (b) he is the subject of a bankruptcy restrictions order or an interim order.

### **Disqualification of company directors**

6. A person is disqualified from holding, or from continuing to hold, office as a temporary governor of a new school at any time when he is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(3);
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(4);
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002(5); or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(6) (*failure to pay under county court administration order*).

### **Disqualification of charity trustee**

7. A person is disqualified from holding or continuing to hold office as a temporary governor of a new school if—

- (a) he has been removed from the office of trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or

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(2) 1983 c.20.

(3) 1986 c.46.

(4) SI 1989/2404 (NI 18). This has been prospectively repealed by the Companies Act 2006.

(5) SI 2002/3150 (NI 4).

(6) 1986 c.45.

- (b) he has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(7) (*powers of Court of Session*), from being concerned in the management or control of any body.

### **Persons whose employment is prohibited or restricted**

**8.** A person is disqualified from holding or continuing to hold office as a temporary governor of a new school at any time when he is—

- (a) included in the list kept under section 1 of the Protection of Children Act 1999(8) (list of those considered by the Secretary of State as unsuitable to work with children);
- (b) subject to a direction of the Secretary of State under section 142 of EA 2002 (or any other disqualification, prohibition or restriction which takes effect as if contained in such a direction);
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(9);
- (d) disqualified from registration under Part 10A of the Children Act 1989(10) for child minding or providing day care; or
- (e) disqualified from registration under Part 3 of the Childcare Act 2006(11).

### **Criminal convictions**

**9.—(1)** Subject to sub-paragraph (5), a person is disqualified from holding, or continuing to hold, office as a temporary governor of a new school where any of sub-paragraphs (2) to (4) or (6) below apply to him.

(2) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as a temporary governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a temporary governor by virtue of his office; or
- (b) since his appointment or election as temporary governor or, as the case may be, since he became a temporary governor by virtue of his office,

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.

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

(4) This sub-paragraph applies to a person if he has at any time been convicted, whether in the United Kingdom or elsewhere, of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

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(7) 2005 asp.10.

(8) 1999 c.14 as amended by the Care Standards Act 2000 (2000 c.14).

(9) 2000 c.43.

(10) 1989 c.41.

(11) 2006 c.21.

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(5) For the purposes of sub-paragraphs (2) to (4) above, any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom must be disregarded.

(6) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as temporary governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a temporary governor by virtue of his office; or
- (b) since his appointment or election as temporary governor or, as the case may be, since he became a temporary governor by virtue of his office,

he has been convicted under section 547 of EA 1996<sup>(12)</sup> (*nuisance or disturbance on school premises*) or under section 85A of the Further and Higher Education Act 1992<sup>(13)</sup> (*nuisance or disturbance on educational premises*) of an offence which took place on the premises of a maintained school, and has been sentenced to a fine.

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

**10.** A person is disqualified from holding or continuing to hold office as a temporary governor at any time if he refuses a request by the clerk to the temporary governing body to make an application under section 113A of the Police Act 1997<sup>(14)</sup> for a criminal records certificate.

### **Notification to clerk**

**11.** Where, by virtue of any of paragraphs 5 to 10—

- (a) a person becomes disqualified from holding, or continuing to hold, office as a temporary governor; and
- (b) he is, or is proposed, to become a temporary governor,

he must upon becoming so disqualified give notice of that fact to the clerk to the temporary governing body.

## SCHEDULE 3

Regulation 45

### Restrictions on Persons Taking Part in Proceedings of the Temporary Governing Body or their Committees

#### **Pecuniary interests**

**1.—**(1) For the purposes of regulation 45(2), a pecuniary interest in a contract, proposed contract or other matter includes a case where—

- (a) a relevant person was nominated or appointed to office by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a partner of a person with whom the contract was made or is proposed to be made; or

<sup>(12)</sup> As amended by SSFA 1998 and section 206 of and Schedule 20 to EA 2002 and by section 6 of and Schedule 1 to EIA 2006.

<sup>(13)</sup> 1992 c.13 inserted by section 206 of and Schedule 2 to EA 2002.

<sup>(14)</sup> 1997 c.50 inserted by section 163 of the Serious Organised Crime and Police Act 2005 (2005 c.10).

- (c) a relative of a relevant person (including his spouse or someone living with that person as if he or she were that person's spouse), to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 45(2), a relevant person shall not be treated as having a pecuniary interest in any matter—

- (a) provided his interest in the matter is no greater than the interest of the generality of those paid to work at the new school;
- (b) by reason only of the fact that he was nominated or appointed to office by, he is a member of, or is employed by, any public body; or
- (c) by reason only of that fact that he is a member of a corporation or other body if he has no financial interest in any securities of that corporation or other body.

(3) Temporary governors shall not, by reason of their pecuniary interest in the matter, be prevented from considering and voting upon proposals for the temporary governing body to take out insurance protecting their members against liabilities incurred by them arising out of their office and the temporary governing body are not, by reason of the pecuniary interest of their members, to be prevented from obtaining such insurance and paying the premiums.

#### **Office of temporary governor, chair, vice-chair or clerk**

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the temporary governing body at which a subject of consideration is—

- (a) his own appointment, reappointment, suspension or removal as a member of the temporary governing body;
- (b) his own appointment or removal from office as clerk to, or chair, or vice-chair, of the temporary governing body;
- (c) if he is a temporary sponsor governor, any determination under paragraph 2 of Schedule 5 to the Constitution Regulations as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies, the relevant person's interests shall be treated for the purpose of regulation 45(2) as being in conflict with the temporary governing body's interests.

#### **Pay or appraisal of persons working at the new school**

3.—(1) This sub-paragraph applies where a relevant person who is paid to work at a new school other than as head teacher is present at a meeting of the school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the new school.

(2) This sub-paragraph applies where a head teacher or head teacher designate of a new school is present at a meeting of the school at which a subject of consideration is his own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests shall be treated for the purpose of regulation 45(2) as being in conflict with the temporary governing body's interests.