
WELSH STATUTORY INSTRUMENTS

2005 No. 2914

The Government of Maintained
Schools (Wales) Regulations 2005

PART 7

Appointment, functions and removal of officers

Election of the chair and vice-chair

39.—(1) Subject to paragraph (2) and to section 18 of the 1998 Act⁽¹⁾ (*Power of National Assembly for Wales to appoint additional governors*), the governing body must elect a chair and a vice-chair from among their number annually.

(2) A governor who is paid to work at the school or who is a pupil at the school is not eligible to be chair or vice-chair of the governing body of that school.

(3) Subject to paragraphs (5) and (6), the chair or vice-chair is to hold office until his or her successor has been elected in accordance with paragraph (1).

(4) The chair or vice-chair may at any time resign his or her office by giving notice in writing to the clerk to the governing body.

(5) The chair or vice-chair ceases to hold office—

- (a) when he or she ceases to be a member of the governing body;
- (b) if he or she is paid to work at the school in question;
- (c) if he or she is removed from office in accordance with regulation 41 or replaced by a chair nominated by the National Assembly for Wales pursuant to section 18 of the 1998 Act; or
- (d) in the case of the vice-chair, he or she is elected in accordance with paragraph (6) to fill a vacancy in the office of chair.

(6) Where a vacancy arises in the office of chair or vice-chair, the governing body must at their next meeting elect one of their number to fill that vacancy, subject to paragraph (2) and to section 18 of the 1998 Act.

(7) Any election of the chair or vice-chair which is contested must be held by secret ballot.

(8) Where the chair is absent from any meeting or there is at the time a vacancy in the office of chair, the vice-chair is to act as chair for all purposes.

(9) Where in the circumstances referred to in paragraph (8) the vice-chair is absent from the meeting or there is at the time a vacancy in the office of vice-chair, the governing body must elect one of their number to act as chair for the purposes of that meeting, subject to paragraph (2).

(10) The clerk to the governing body is to act as chair during that part of any meeting at which the chair is to be elected.

⁽¹⁾ Amended by section 56 of the 2002 Act.

Delegation of functions to the chair or vice-chair in cases of urgency

40.—(1) The chair may, where in his or her opinion the circumstances mentioned in paragraph (2) apply, exercise any function of the governing body which can be delegated under regulation 50(1).

(2) The circumstances are that a delay in exercising the function would be likely to be seriously detrimental to the interests of—

- (a) the school;
- (b) any pupil at the school, or his or her parent; or
- (c) a person who works at the school.

(3) In paragraph (2), “delay” (“*oedi*”) means delay for a period extending beyond the earliest date on which it would be reasonably practicable for a meeting of the governing body, or of a committee to which the function in question has been delegated, to be held.

(4) Where it appears to the vice-chair that—

- (a) the circumstances mentioned in paragraph (2) apply, and
- (b) the chair (whether by reason of a vacancy in the office or otherwise) would be unable to exercise the function in question before the detriment referred to in that paragraph is suffered,

the reference in paragraph (1) to the chair is to be read as if it were a reference to the vice-chair.

Removal of the chair or vice-chair from office

41.—(1) Subject to paragraphs (3) and (4), the governing body may by resolution remove the chair from office, unless he or she has been nominated by the National Assembly for Wales pursuant to section 18 of the 1998 Act.

(2) Subject to paragraphs (3) and (4), the governing body may by resolution remove the vice-chair from office.

(3) A resolution to remove the chair or vice-chair from office does not have effect unless the matter is specified as an item of business on the agenda for the meeting, of which notice has been given in accordance with regulation 45(7).

(4) Before the governing body resolve to remove the chair or the vice-chair from office, the governor proposing his or her removal must at that meeting state his or her reasons for doing so and the chair or vice-chair (as the case may be) must be given an opportunity to make a statement in response, before withdrawing from the meeting.

Appointment and removal of the clerk to the governing body

42.—(1) This regulation is without prejudice to any rights and liabilities which the clerk may have under any contract with the governing body or with the local education authority.

(2) The governing body must appoint a clerk to the governing body.

(3) The clerk to the governing body must not be—

- (a) a governor;
- (b) a non-governor member of any committee of the governing body;

or

- (c) the head teacher of the school.

(4) Notwithstanding paragraph (2), the governing body may, if the clerk fails to attend a meeting of theirs, appoint any one of their number (who is not the head teacher) to act as clerk for the purposes of that meeting.

(5) The governing body may remove the clerk to the governing body from office.

(6) If at any time the school does not have a delegated budget⁽²⁾, the local education authority may remove the clerk to the governing body and appoint a substitute, provided the local education authority consults the governing body before taking such action.

Functions of the clerk to the governing body

43.—(1) The clerk to the governing body must—

- (a) convene meetings of the governing body in accordance with regulation 45;
- (b) attend meetings of the governing body and ensure minutes of the proceedings are produced in accordance with regulation 47(1);
- (c) maintain a register of members of the governing body and report any vacancies to the governing body;
- (d) maintain a register of governors' attendance at meetings and report on non-attendance to the governing body;
- (e) give and receive notices in accordance with

regulations 21 (*Notification of vacancies and appointments*), 26 (*Resignation*), 27 (*Removal of governors*), 39(4) (*Resignation of chair or vice chair*), and 45(4) (*convening meetings*) of, and paragraph 13 of Schedule 5 (*Notification of disqualification*) to, these Regulations.

- (f) report to the governing body as required on the discharge of his or her functions; and
- (g) perform such other functions as may be determined by the governing body from time to time.

(2) The clerk to the governing body may provide it with advice on its functions and procedures.

(2) See section 39(2) of the 2002 Act.