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STATUTORY INSTRUMENTS

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**2005 No. 3200 (W.236)**

**EDUCATION, WALES**

**The School Councils (Wales) Regulations 2005**

*Made* - - - - - *15 November 2005*

*Coming into force* - - - - - *31 December 2005*

The National Assembly for Wales, in exercise of the powers conferred on it by sections 19(2), 19(3), 20(2), 21(3), 210(7) and 214(1) of the Education Act 2002(1), hereby makes the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the School Councils (Wales) Regulations 2005 and they come into force on 31 December 2005.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these regulations—

“school” (*“ysgol”*) means a maintained school other than a maintained nursery school or an infant school; and

“infant school” (*“ysgol fabanod”*) means a maintained school that does not admit pupils who are 8 years of age or older; and

“special educational needs resource base” (*“canolfan adnoddau anghenion addysgol arbennig”*) means a class or department within a school for pupils with special educational needs.

**School Councils**

3.—(1) The governing body of a school must establish a school council, the purpose of which is to enable pupils to discuss matters relating to their school, their education and any other matters of concern or interest and to make representations on these to the governing body and the head teacher;

(2) The head teacher of a school must:

(a) ensure that meetings of the school council are convened on six occasions during the school year and, in so far as practicable, at regular intervals, the first of such meetings to take place by 1 November 2006; and

- (b) ensure that all school council meetings are supervised by at least one member of the school staff.
- (3) Both the governing body and the head teacher of a school must consider any matter communicated to them by the school council and provide a response to the school council.
- (4) The governing body and head teacher of a school may agree to perform their functions under these Regulations jointly with the governing body and head teacher of other schools.

### **Membership**

- 4.—(1) The membership of the school council must consist solely of registered pupils at the school.
- (2) The governing body of a school and the head teacher must make arrangements for at least one registered pupil of each year group, from Year 3 and above, to be elected to membership of the school council.
- (3) A person who is not a registered pupil at the school for which a school council is established is disqualified from membership of that council.
- (4) The governing body and the head teacher of any school which has a special educational needs resource base, must make arrangements for at least one registered pupil from that special educational needs resource base to be elected to membership of the school council.

### **Special Schools**

- 5. Regulations 3(2)(a), 4(2), 6 and 7 do not apply to community special schools or foundation special schools.

### **Elections**

- 6.—(1) Subject to paragraph (2), appointment to the school council must be by election in a secret ballot in which all registered pupils are entitled to vote for candidates (if any) in their year group or within their special educational needs resource base.
- (2) Paragraph (1) does not apply where arrangements are made for all registered pupils to be members of the school council.

### **Associate Pupil Governors**

- 7.—(1) The head teacher of a school must ensure that the school council has the opportunity to nominate up to two pupils from years 11 to 13 (inclusive) from its membership to be associate pupil governors on the school's governing body.
- (2) The governing body must accept any pupil nominated in accordance with paragraph (1) above, and appoint him or her as an associate pupil governor on the governing body, provided the pupil is not disqualified from membership in accordance with Schedule 5 of the Government of Maintained Schools (Wales) Regulations 2005(2).

### **Associate Pupil Governors: Amendments to the Government of Maintained Schools (Wales) Regulations 2005**

- 8.—(1) The Government of Maintained Schools (Wales) Regulations 2005 are amended as follows.
- (2) After regulation 12 insert:

### **“Associate pupil governors**

**12A.**—(1) In these Regulations “associate pupil governor” means a registered pupil nominated by the school council to be a member of the governing body and appointed as such by the governing body in accordance with regulation 7 of the School Councils (Wales) Regulations 2005.

(2) The maximum number of associate pupil governors on any governing body is two.

(3) After regulation 20 insert:

“**20A.** Any associate pupil governor is in addition to the numbers of governors set out in Regulations 13 to 20 and Schedule 8.”

(4) After regulation 25(5) insert:

“(5A) Paragraph (1) does not apply to any associate pupil governor who is to hold office for a period of one year from the date of his or her appointment. Nothing in this paragraph prevents an associate pupil governor from being re-appointed at the expiration of his or her term of office.”

(5) For regulation 29 and its heading substitute:

### **“Removal of appointed parent governors, partnership governors and associate pupil governors:**

**29.** Any parent governor appointed by the governing body under paragraphs 10 to 12 of Schedule 1, any partnership governor and any associate pupil governor may be removed by the governing body in accordance with the procedure set out in regulation 30.”

(6) At the beginning of regulation 33(1)(d) insert “subject to paragraph (5),”.

(7) After regulation 33(4), add:

“(5) Sub-paragraphs (d) and (e) of paragraph (1) do not apply to associate pupil governors.”

(8) In regulation 44, substitute “regulations 44A and 63” for “regulation 63”.

(9) After regulation 44, insert:

### **“Exclusion of associated pupil governors from meetings**

**44A.**—(1) The governing body may exclude associate pupil governors from any governing body discussion relating to:

- (a) staff appointments, staff pay, staff discipline, performance management of staff, grievances submitted by staff or dismissal of staff;
- (b) admissions;
- (c) individual pupil discipline;
- (d) election, appointment and removal of governors;
- (e) the budget and financial commitments of the governing body;
- (f) in the case of a voluntary aided school, the Trust Deed; or
- (g) any other matter that, by reason of its nature, the governing body is satisfied is and should remain confidential.”

(10) In regulation 46(1) insert “any associate pupil governors,” before “any vacancies.”

(11) In regulation 46(2) insert “(excluding any associate pupil governors)” after “and voting on the question.”

(12) After regulation 46(2) insert:

“**2A.** Associate pupil governors may not vote on any question to be determined at a meeting of the governing body.”.

(13) In regulation 54(7) insert “associate pupil governors and” after “may include”.

(14) At the end of regulation 54(8) add “excluding associate pupil governors.”.

(15) For regulation 55(7), substitute:

“(7) Neither the head teacher of the school nor an associated pupil governor may be a member of the staff disciplinary and dismissal committee or the disciplinary and dismissal appeal committee.”.

(16) In regulation 56(2) insert “or any associated pupil governor” after “the head teacher”.

(17) In regulation 57(2)(b) insert “(excluding associate pupil governors)” after “other governors”.

(18) For regulation 58(2) substitute:

“(2) Neither the head teacher of the school nor an associate pupil governor may be appointed as a clerk under paragraph (1).”

(19) In regulation 60(5) substitute “, 57(4) and 60(9)” for “and 57(4)”.

(20) At the beginning of regulation 60(6) insert “Subject to regulation 60(8),”.

(21) At the beginning of regulation 60(7) insert “Subject to regulation 60(9),”.

(22) After regulation 60(8), insert:

“**60.—(9)** For the purposes of paragraphs (5), (6), (7) and (8) above, the governing body shall determine whether associate pupil governors shall be treated as governors.”

(23) At the beginning of paragraphs 1 and 11(1) of Schedule 5 insert “Save in the case of associated pupil governors,”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3).

15 November 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the requirement for maintained schools to set up school councils, which will provide pupils with the opportunity to discuss and make representations on matters relating to the school or other issues of concern to them.

Regulation 1 provides for the Regulations to come into force on 31 December 2005 and regulation 2 contains the interpretation provisions.

Regulation 3 sets out the purpose of school councils and the duties of head teachers and governing bodies in respect of the school councils.

Regulation 4 sets out the membership requirements of each school council.

Regulation 5 provides that certain provisions do not apply to special schools.

Regulation 6 provides that appointment to school councils will be by secret ballot unless arrangements are made for all registered pupils to be members of the school council.

Regulation 7 provides that certain school council members must be given the opportunity to become associate pupil governors and regulation 8 sets out amendments to the Government of Maintained Schools (Wales) Regulations 2005.

A regulatory appraisal of these Regulations has been prepared and can be viewed on the National Assembly for Wales website ([www.wales.gov.uk](http://www.wales.gov.uk)). Copies can be obtained from the Schools Management Division of the Department for Training and Education, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.