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WELSH STATUTORY INSTRUMENTS

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**2014 No. 1132**

**The Federation of Maintained  
Schools (Wales) Regulations 2014**

**PART 2**

**ESTABLISHING OR JOINING A FEDERATION**

**General**

- 4.—(1) A federation may comprise of at least two but no more than six of the following—
- (a) community schools, community special schools and maintained nursery schools<sup>(1)</sup> (and no other category of school);
  - (b) foundation schools<sup>(2)</sup> (and no other category of school); or
  - (c) voluntary controlled and voluntary aided schools<sup>(3)</sup> (and no other category of school).
- (2) Regulations 5 to 7 apply where governing bodies propose to federate in accordance with section 10 of the 2011 Measure.
- (3) Regulation 8 applies where it is proposed to establish a new school and either—
- (a) the temporary governing body wish to federate with one or more governing bodies; or
  - (b) the local authority or, where the school is to be a foundation or voluntary school proposals for the establishment of which were published by promoters, the promoters propose that the school should be a federated school.
- (4) Regulations 9 and 10 apply where a local authority exercises its power to federate schools in accordance with section 11 of the 2011 Measure.
- (5) Regulations 11 and 12 apply where a local authority exercises its power to federate small schools in accordance with section 11 of the 2011 Measure.

**Procedure for federation – governing body proposed**

- 5.—(1) Where a governing body is considering federation, it must first consider a report on the proposal.
- (2) The report must be specified as an item on the agenda for the meeting of which notice has been given in accordance with regulation 57(4).
- (3) Where a governing body proposes that it should federate with the governing body of a federation, it must give notice of the proposal to the governing body of the federation.
- (4) Upon receipt of the notice, the governing body of the federation must consider whether it should—

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(1) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act and section 39(1) of the 2002 Act.

(2) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

(3) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

- (a) give preliminary consent to the governing body joining the federation; or
- (b) determine that the governing body should not join the federation.

### **Publication of proposals – governing body proposed**

6.—(1) Where a governing body decides that it should federate with one or more other governing bodies and, where necessary, preliminary consent in accordance with regulation 5(4)(a) has been given, they must jointly with the other governing body or bodies publish proposals for federation.

(2) The proposals must contain the following—

- (a) the name or names of the governing body or bodies with which the governing body proposes to federate and confirmation that the governing body, or those governing bodies, have resolved likewise to federate;
- (b) the proposed size of the governing body of the federation;
- (c) the proposed number of governors for each category of governor;
- (d) the proposed arrangements for staffing the schools within the federation;
- (e) the proposed federation date;
- (f) the identity of the admission authority or authorities for the schools within the federation;
- (g) the date, not less than six weeks after the publication of the proposals, by which written representations may be made to the governing body regarding the proposals and the address to which they should be sent; and
- (h) such other matters as the governing bodies consider appropriate.

(3) The governing bodies proposing to federate must publish the proposals by sending them to—

- (a) the relevant local authorities;
- (b) the head teacher of each school;
- (c) the school council of each school;
- (d) in the case of any school with a foundation—
  - (i) the foundation governors; and
  - (ii) any trustees of a trust relating to the school;
- (e) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school;
- (f) all staff paid to work at any of the schools;
- (g) every person known by them to be a parent of a registered pupil at any of the schools;
- (h) every trade union known to them to have members paid to work at any of the schools; and
- (i) such other persons as the governing bodies consider appropriate.

(4) A copy of the proposals must be made available for inspection at all reasonable times at each school.

(5) The proposed federation date in paragraph (2)(e) must be not less than 125 days following the publication of the proposals for federation by the governing body pursuant to paragraph (1).

### **Consideration of responses to proposals and determination as to whether to proceed – governing body proposed**

7.—(1) The governing bodies proposing to federate must jointly consider any responses to the proposals and each governing body must determine whether—

- (a) to proceed with the proposals for federation as published;
- (b) to proceed with the proposals for federation with such modifications as the governing body considers appropriate; or
- (c) not to proceed with the proposals for federation.

(2) The modifications referred to in paragraph (1)(b) must not include a change in the identity of the governing bodies proposing to federate.

(3) All the governing bodies that have determined to proceed must jointly give notice of that fact to the relevant local authority or local authorities.

### **New schools wishing to federate**

8.—(1) Where it is proposed that a new school should federate with one or more schools or a federation, paragraph (2) or (3) applies as appropriate.

(2) Where a temporary governing body has been established, regulations 5 to 7 have effect as if references to a governing body proposing to federate were references to a temporary governing body proposing to federate.

(3) Where a temporary governing body is yet to be established, regulations 5 to 7 have effect as if—

- (a) references to the governing body proposing to federate were references to the local authority or, where proposals are to establish a voluntary school proposals for the establishment of which were published by promoters, the promoters;
- (b) regulation 5(2) were omitted; and
- (c) in regulation 6(2)(a) for “the governing body propose to federate” there were substituted “the local authority or the promoters propose that the temporary governing body of the new school should federate”.

(4) Parts 1 to 3 and 5 to 7 of the New Maintained Schools Regulations are to apply to a temporary governing body constituted pursuant to this regulation.

(5) Where it is proposed that two or more new schools should federate, with or without one or more other schools or other federation, the local authority may make arrangements providing for the constitution of a single temporary governing body for those new schools.

(6) Where the proposed federation includes schools which are maintained by two or more local authorities, those local authorities must agree amongst themselves which local authority may make arrangements providing for the constitution of a single temporary governing body for those new schools.

(7) Where one or more of the new schools referred to in paragraph (2) is to be a voluntary school proposals for the establishment of which were published by promoters, the local authority must consult the promoters—

- (a) as to whether the power given to the local authority in paragraph (2) should be exercised; and
- (b) if the local authority proposes to exercise it, as to the date on which the arrangements should be made.

(8) Schedule 1 applies to a temporary governing body constituted pursuant to this regulation.

### **Procedure for federation - local authority proposed**

9.—(1) Where a local authority makes a proposal under section 11 of the 2011 Measure that does not involve the federation of only small schools the published proposals must contain the following—

- (a) the name or names of the governing body or bodies which the local authority is proposing to federate;
  - (b) the proposed size of the governing body of the federation;
  - (c) the proposed number of governors for each category of governor;
  - (d) the proposed arrangements for staffing the schools within the federation;
  - (e) the proposed federation date;
  - (f) the identity of the admission authority or authorities for the schools within the federation;
  - (g) the date, not less than six weeks after the publication of the proposals, by which written representations may be made to the local authority regarding the proposals and the address to which they should be sent;
  - (h) in the case of a proposal for a federation that includes a maintained school not maintained by the proposing local authority confirmation that the local authority that maintains the school in question has given its consent;
  - (i) in the case of a proposal that includes a foundation or voluntary school confirmation that the appropriate diocesan authority or the person or persons by whom the foundation governors are appointed (as the case may be) has given consent; and
  - (j) such other matters as the local authority considers appropriate.
- (2) The local authority must publish the proposals by sending them to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;
  - (c) the school council of each school;
  - (d) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (e) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school;
  - (f) all staff paid to work at any of the schools;
  - (g) every person known by them to be a parent of a registered pupil at any of the schools;
  - (h) every trade union known to them to have members paid to work at any of the schools; and
  - (i) such other persons as the local authority considers appropriate.
- (3) A copy of the proposals must be published on the local authority's website.
- (4) A copy of the proposals must be made available for inspection at all reasonable times at each school.
- (5) The proposed federation date in paragraph (1)(e) must be not less than 125 days following the publication of the proposals for federation by the governing body pursuant to section 11 of the 2011 Measure.

### **Consideration of responses to proposals and determination as to whether to proceed – local authority proposed**

**10.**—(1) The local authority must consider any responses to the proposals and publish a summary of the responses together with the local authority’s comments on the local authority’s website.

(2) The local authority must determine whether—

- (a) to proceed with the proposals for federation as published;
- (b) to proceed with the proposals for federation with such modifications as the local authority consider appropriate; or
- (c) not to proceed with the proposals for federation.

(3) The modifications referred to in paragraph (2)(b) must not include a change in the identity of the governing bodies that the local authority is proposing to federate.

(4) Any determination under paragraph (2) must be published on the local authority’s website and a copy of the determination sent to—

- (a) any other relevant local authority;
- (b) the head teacher of each school;
- (c) in the case of any school with a foundation—
  - (i) the foundation governors; and
  - (ii) any trustees of a trust relating to the school;
- (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school; and
- (e) such other persons as the local authority considers appropriate.

### **Procedure for federation - small schools**

**11.**—(1) Where a local authority makes a proposal under section 11 of the 2011 Measure that involves only the federation of small schools the published proposals must contain the following—

- (a) the name or names of the governing body or bodies which the local authority is proposing to federate;
- (b) the proposed size of the governing body of the federation;
- (c) the proposed number of governors for each category of governor;
- (d) the proposed arrangements for staffing the schools within the federation;
- (e) the proposed federation date;
- (f) the identity of the admission authority or authorities for the schools within the federation;
- (g) in the case of a proposal for a federation that includes a maintained school not maintained by the proposing local authority confirmation that the local authority that maintains the school in question has given its consent;
- (h) in the case of a proposal that includes a foundation or voluntary school confirmation that the appropriate diocesan authority or the person or persons by whom the foundation governors are appointed (as the case may be) has given consent; and
- (i) such other matters as the local authority considers appropriate.

(2) The local authority must publish the proposals by sending them to the governing body and school council of each small school that it intends to federate inviting a response from the governing body within 20 school days.

- (3) The local authority must also send copies of the proposals to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;
  - (c) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school; and
  - (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school.
- (4) A copy of the proposals must be published on the local authority’s website.
- (5) A copy of the proposals must be made available for inspection at all reasonable times at each school.
- (6) The proposed federation date in paragraph (1)(e) must be not less than 100 days following the publication of the proposals for federation by the governing body pursuant to section 11 of the 2011 Measure.

### **Consideration of responses to proposals and determination as to whether to proceed – small schools**

- 12.**—(1) The local authority must consider any responses to the proposals and publish a summary of the responses together with the local authority’s comments on the local authority’s website.
- (2) The local authority must determine whether—
- (a) to proceed with the proposals for federation as published;
  - (b) to proceed with the proposals for federation with such modifications as the local authority consider appropriate; or
  - (c) not to proceed with the proposals for federation.
- (3) The modifications referred to in paragraph (2)(b) must not include a change in the identity of the governing bodies proposing to federate.
- (4) Any determination under paragraph (2) must be published on the local authority’s website and a copy of the determination sent to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;
  - (c) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school; and
  - (e) such other persons as the local authority considers appropriate.

### **Incorporation of governing bodies of federations and dissolution of former governing bodies**

- 13.**—(1) On the federation date—

- (a) the governing bodies of the federating schools or federations are dissolved;
  - (b) the governing body of the federation is incorporated;
  - (c) all land and property which, immediately before the federation date, was held by the governing body of a federating school or federation transfers to, and by virtue of these Regulations vests in, the governing body of the federation; and
  - (d) all rights and liabilities subsisting immediately before the federation date which were acquired or incurred by the governing body of a federating school or federation be transferred to the governing body of the federation.
- (2) Section 198 of the Education Reform Act 1988(4) (which, with Schedule 10 to that Act, makes further provision in relation to transfers of property, rights and liabilities) applies in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.