



Education (Wales) Measure 2011

2011 nawm 7

PART 2

SCHOOL GOVERNANCE

CHAPTER 1

FEDERATION OF MAINTAINED SCHOOLS

10 Federation of schools by governing bodies

- (1) This section applies to the governing bodies—
 - (a) of two or more maintained schools,
 - (b) of an existing federation and one or more maintained schools, or
 - (c) of two or more existing federations.
- (2) Governing bodies may provide for their respective schools to be federated.
- (3) This power is subject to—
 - (a) compliance with any prescribed conditions, and
 - (b) the exercise of the power in accordance with any prescribed procedure.

11 Proposals by local authorities to federate schools

- (1) A local authority may make proposals for the federation—
 - (a) of two or more maintained schools;
 - (b) of an existing federation and one or more maintained schools;
 - (c) of two or more existing federations.
- (2) A local authority must publish proposals made under this section.
- (3) A local authority must, in accordance with regulations, consult the following persons on the published proposals—

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- (a) the governing bodies of the schools or federations to be federated;
 - (b) the staff of the schools;
 - (c) one or more bodies (if any) appearing to the authority to represent the interests of the staff of the schools;
 - (d) in so far as is practicable, registered pupils at the schools and their parents.
- (4) Subsections (2) and (3) do not apply in relation to a proposal for a federation consisting only of small schools.
- (5) In relation to a proposal for a federation consisting only of small schools the local authority must, in accordance with regulations, consult the governing bodies of the schools concerned.
- (6) A “small school” in subsections (4) and (5) means a maintained school that, on the date that the proposal is made under subsection (1), is a small maintained school as defined in an order under section 15.
- (7) A local authority must, in accordance with regulations, determine whether to—
- (a) confirm proposals, with or without modification or subject to the occurrence of an event, or
 - (b) withdraw them.
- (8) A local authority may make proposals for a federation that includes a maintained school that it does not maintain only if the local authority that maintains the school gives its consent.
- (9) A local authority may make proposals for a federation that includes a foundation or voluntary school only if the following persons give their consent—
- (a) in the case of a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (b) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (10) Regulations may make further provision about proposals under this section and may (among other things) make provision about—
- (a) obtaining consent from prescribed persons to the making, publication or confirmation of proposals;
 - (b) the information to be included in, or provided in relation to, the proposals;
 - (c) the publication of proposals;
 - (d) consultation on the proposals;
 - (e) the making of objections to or comments on the proposals;
 - (f) withdrawal or modification of the proposals;
 - (g) confirmation of the proposals by the local authority.

12 Implementation of proposals under section 11

- (1) This section applies to proposals under section 11.
- (2) Confirmed proposals must be implemented by the persons mentioned in subsection (3), respectively, to such extent (if any) as the proposals provide for each of them to do so.
- (3) The persons are—

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- (a) the local authority that maintains a school subject to the proposals;
 - (b) the governing body of a school subject to the proposals;
 - (c) such other persons as may be prescribed.
- (4) Confirmed proposals are to be implemented in the form in which they were confirmed, subject to the following subsections.
- (5) At the request of prescribed persons, the local authority that made the proposals—
- (a) may modify the proposals after consulting such persons as may be prescribed, and
 - (b) if any confirmation was given subject to the occurrence of a specified event, may specify a later date by which the event in question must occur.
- (6) A local authority that made the proposals may determine that subsection (2) is to cease to apply to the proposals if it is satisfied—
- (a) that implementation of the proposals would be unreasonably difficult, or
 - (b) that the circumstances have so altered since confirmation was given that implementation would be inappropriate.
- (7) If required to do so by regulations, a local authority must consult or obtain the consent of such persons as may be prescribed before making a determination under subsection (6).

13 Single governing body for federations

A federation must—

- (a) have a single governing body constituted under a single instrument of government;
- (b) in prescribed cases, be treated as a single school for the purposes of such enactments as may be prescribed, other than any enactment contained in Chapter 2 of Part 2 of the School Standards and Framework Act 1998 (establishment, alteration or discontinuance of school) or in Part 3 of that Act (school admissions).

14 Regulations in relation to federations

- (1) Regulations may make provision—
- (a) as to the dissolution of governing bodies on the formation of a federation;
 - (b) enabling the governing body of a federation to continue in existence as a body corporate when one or more schools join or leave the federation;
 - (c) as to the circumstances in which and manner in which a federation may be dissolved, or one or more schools may leave a federation;
 - (d) enabling the governing body of a federation that is dissolved to be replaced either by governing bodies for each of the constituent schools or by governing bodies which include the governing body of a new federation;
 - (e) as to the transition from one governing body to another;
 - (f) as to the transfer of property, rights and liabilities between governing bodies, or between local authorities and governing bodies;
 - (g) as to such other matters relating to federations, federated schools or the formation or dissolution of federations as the Welsh Ministers consider appropriate.

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- (2) Regulations made by virtue of subsection (1)(f) in relation to the transfer of property, rights and liabilities may—
- (a) provide for prescribed matters to be determined by the Welsh Ministers,
 - (b) apply with modifications any provision of Schedule 10 to the Education Reform Act 1988 (supplementary provisions with respect to transfers under that Act), or
 - (c) make provision equivalent to that made by any provision of that Schedule.

15 Identification of small maintained schools in Wales for the purposes of this Chapter

- (1) The Welsh Ministers may make provision by order for the definition of a small maintained school by reference to a specified number of pupils registered at a school on a specified date in any year.
- (2) An order under this section applies for the purposes of provision under this Chapter.
- (3) In this section, “specified” means specified in an order made by the Welsh Ministers.

16 Federation of schools causing concern by direction of the Welsh Ministers

- (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 14(3), after paragraph (a) insert—
 - “(aa) the Welsh Ministers have exercised in relation to the school their powers under section 18B (power to direct federation of schools); or”.
- (3) After section 18A insert—

“18B Power of Welsh Ministers to direct federation of schools

- (1) A maintained school is a “school causing concern” for the purpose of this section if, at any time—
 - (a) section 15 applies to the school by virtue of subsection (4) or (6) of that section, or
 - (b) the Welsh Ministers are satisfied that—
 - (i) the standards of performance of pupils at the school are unacceptably low and are likely to remain so unless they exercise their powers under this section, or
 - (ii) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
 - (iii) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise), or
 - (iv) that the governing body has failed to comply with a provision of an order under section 122 of the Education Act 2002 (teachers' pay and conditions) that applies to a teacher at the school, or
 - (v) that the governing body has failed to secure that the head teacher of the school complies with such a provision.

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- (2) For the purposes of subsection (1)(b) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following—
- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
 - (b) where relevant, the standards previously attained by them, or
 - (c) the standards attained by pupils at comparable schools.
- (3) The Welsh Ministers may direct any one or more of the following persons, as appropriate, to provide for one or more of the arrangements set out in subsection (4)—
- (a) a local authority;
 - (b) a governing body of a maintained school;
 - (c) a governing body of a federation.
- (4) The arrangements are—
- (a) the federation of the school causing concern and one or more maintained schools;
 - (b) the federation of the school causing concern and an existing federation;
 - (c) the federation of the school causing concern and an existing federation and one or more maintained schools;
 - (d) where the school causing concern is part of a federation, the federation of that federation and one or more maintained schools;
 - (e) where the school causing concern is part of a federation, the federation of that federation and another existing federation;
 - (f) where the school causing concern is part of a federation, the federation of that federation and an existing federation and one or more maintained schools;
 - (g) where the school causing concern is part of a federation, for the school to leave that federation.
- (5) Before giving a direction under subsection (3), the Welsh Ministers must consult—
- (a) the local authority,
 - (b) the governing bodies concerned,
 - (c) in the case of a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (6) A person subject to a direction under this section must comply with it.
- (7) A direction under this section—
- (a) must be in writing,
 - (b) must be published,
 - (c) may be varied or revoked by further direction, and
 - (d) is enforceable by mandatory order on application by the Welsh Ministers to the High Court.

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(8) In this section “federation” has the meaning given by section 21(1) of the Education (Wales) Measure 2011.”

17 Guidance given by the Welsh Ministers

In exercising their functions under this Chapter, a local authority and a governing body of a maintained school must have regard to guidance given from time to time by the Welsh Ministers.

18 Federations: supplementary provisions

- (1) Regulations may make provision for the purposes of this Chapter modifying any provision contained in—
 - (a) Chapter 4 of Part 1 of the School Standards and Framework Act 1998 (intervention in schools in Wales causing concern), or
 - (b) sections 49 to 51 of, and Schedule 15 to, that Act (financial delegation), in the application of the provision to federated schools or their governing bodies.
- (2) The modifications that may be made by virtue of subsection (1) include, among other things, modifications—
 - (a) enabling powers conferred by the provisions referred to in that subsection to be exercised in relation to all the schools in a federation even though the circumstances by reference to which the powers are exercisable exist only in relation to one or more of those schools, and
 - (b) requiring the apportionment of any costs or expenses incurred by the governing body of a federation.
- (3) Regulations may make provision modifying any enactment which relates to schools within a particular category, or to the governing bodies of schools within a particular category, in the application of the enactment to schools forming part of a federation or to the governing bodies of federations.
- (4) In subsection (3), references to categories of maintained schools are references to the categories set out in section 20(1) of the School Standards and Framework Act 1998.

19 Minor and consequential amendments to the Education Act 2002

- (1) The Education Act 2002 is amended as follows.
- (2) In section 19—
 - (a) in subsection (8), before “Subsection (1)” insert “In relation to maintained schools in England,”;
 - (b) after subsection (8), insert—
 - “(9) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under this section may include provision with respect to the governing bodies of federations (within the meaning of section 21(1) of that Measure).”
- (3) In section 20—

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- (a) in subsection (4), before “Subsection (1)” insert “In relation to maintained schools in England,”;
 - (b) after subsection (4), insert—
 - “(4A) In relation to maintained schools in Wales, subsection (1) has effect subject to Chapter 1 of Part 2 of the Education (Wales) Measure 2011; and regulations under subsection (2) may include provision with respect to instruments of government for federations (within the meaning of section 21(1) of that Measure).”
- (4) In section 24—
- (a) in subsection (1)(a), after “schools” insert “in England”;
 - (b) in subsection (1)(b), after “schools” insert “in England”;
 - (c) in subsection (2), after “schools” insert “in England”;
 - (d) in subsection (4)(g) omit “, or as the case may be the National Assembly for Wales,”;
 - (e) in subsection (5)(a) omit “or the National Assembly for Wales”.
- (5) In section 25(1)—
- (a) omit paragraph (a);
 - (b) in paragraph (b), after “federated schools” insert “in England”.
- (6) In section 39(1), after “federated school” insert “in relation to England”.
- (7) In paragraph 5 of Schedule 1, after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (1) does not apply if—
 - (a) the school is a federated school in Wales, and
 - (b) immediately after the discontinuance date, there will be more than one other school remaining in the federation.
 - (1B) “Federation” in sub-paragraph (1A) means a group of schools that are federated by virtue of Chapter 1 of Part 2 of the Education (Wales) Measure 2011 or were federated by virtue of section 24 before the coming into force of that Chapter, and “federated school” means a school forming part of a federation.”

20 Minor and consequential amendments to the Education Act 2005

In section 68 of the Education Act 2005 for “section 24(2) of the Education Act 2002” substitute “section 21(1) of the Education (Wales) Measure 2011”.

21 Interpretation of this Chapter

- (1) In this Chapter—
- “federation” (*ffederasiwn*) means a group of schools in Wales that are federated by virtue of this Chapter or were federated by virtue of section 24 of the Education Act 2002 before the coming into force of this Chapter, and “federated school” (*ysgol ffederal*) means a school forming part of a federation;
 - “local authority” (*awdurdod lleol*) means a local authority in Wales;

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“maintained school” (“*ysgol a gynhelir*”) means a school in Wales which is a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

(2) In any enactment—

- (a) any reference to the governing body or governors of a school is to be construed, in relation to a federated school, as a reference to the governing body or governors of the federation, and
- (b) any reference to the instrument of government of a school is to be construed, in relation to a federated school, as a reference to the instrument of government of the federation.