

2004 No. 2042

EDUCATION, ENGLAND

**The School Governance (Federations) (England) Regulations
2004**

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ARRANGEMENT OF REGULATIONS

PART 1

GENERAL PROVISIONS

1. Citation, commencement and application
2. Revocation
3. Interpretation

PART 2

ESTABLISHING OR JOINING A FEDERATION

4. Prescribed cases
- 5-9. Procedure for schools wishing to federate
- 10-11. New schools wishing to federate
12. Incorporation of governing bodies of federations and dissolution of former governing bodies

PART 3

CATEGORIES OF GOVERNOR

13. Parent governors
14. Staff governors
15. LEA governors
16. Community governors
17. Foundation governors
18. Partnership governors
19. Sponsor governors
20. Associate members

PART 4

COMPOSITION OF GOVERNING BODIES OF A FEDERATION

21. General principles
22. Federation comprising community, community special and maintained nursery schools
23. Federation comprising foundation or foundation special schools only
24. Federation comprising voluntary controlled schools only

- 25. Federation comprising voluntary aided schools only
- 26. Federation comprising voluntary controlled schools and community, community special or maintained nursery schools
- 27. Federation comprising more than one category of school and at least one foundation or foundation special or voluntary aided school

PART 5

INSTRUMENTS OF GOVERNMENT, PROCEDURES, STAFFING AND CHARITABLE STATUS

- 28. Qualifications, tenure of office and instruments of government
- 29. Procedures of governing bodies of federations
- 30. Staffing of federations
- 31. Charitable status of federations

PART 6

INFORMATION AND FUNDING

- 32. Information for the governing body of a federation
- 33-34. Financing of Federations

PART 7

FEDERATED SCHOOLS LEAVING FEDERATIONS

- 35. Procedure for a school to leave a federation
- 36. Referral to the Secretary of State
- 37. Decision to permit federated school to leave a federation
- 38. Availability of amounts representing budget share
- 39. Incorporation of governing body of a school leaving a federation
- 40. Transfer of property

PART 8

DISSOLUTION OF FEDERATIONS

- 41-42. Dissolution of federations
- 43. Availability of amounts representing budget share
- 44. Incorporation of governing body of a school leaving a federation
- 45. Transfer of property

SCHEDULE 1

Temporary governing bodies of new schools intending to federate

SCHEDULE 2

Election and appointment of parent governors

SCHEDULE 3

Election of staff governors

SCHEDULE 4

Appointment of community governors in federations which include community special schools

SCHEDULE 5

Partnership Governors

SCHEDULE 6

Appointment of sponsor governors

SCHEDULE 7

Modification of the Constitution Regulations

SCHEDULE 8

Modification of the Procedures Regulations

SCHEDULE 9

Modification of the Staffing Regulations

In exercise of the powers conferred on the Secretary of State by sections 19(2), (3) and (8), 20(2), (3) and (4), 24, 25, 34(5), 35(4) and (5), 36(4) and (5), 210(7) and 214 of the Education Act 2002(a) the Secretary of State for Education and Skills hereby makes the following Regulations:

PART 1

GENERAL PROVISIONS

Citation, commencement and application

1.—(1) These Regulations may be cited as the School Governance (Federations) (England) Regulations 2004 and shall come into force on 30th August 2004.

(2) These Regulations apply only in relation to England.

Revocation

2.—(1) The Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) Regulations 2003(b) are hereby revoked.

(2) The Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) (Amendment) Regulations 2003 are hereby revoked.

Interpretation

3. —In these Regulations—

“the 1998 Act” means the School Standards and Framework Act 1998(c);

“the 2000 Act” means the Learning and Skills Act 2000(d);

“the 2002 Act” means the Education Act 2002;

“authority” means the local education authority by which a maintained school is, or a proposed school is to be, maintained;

“the Constitution Regulations” means the School Governance (Constitution) (England) Regulations 2003(e);

“day” means school day as defined by section 579 of the Education Act 1996(f);

“the federation date” means the date on which governing bodies federate;

(a) 2002 c.32; by virtue of the definition of “regulations” in section 212(1) of the Education Act 2002, these Regulations made by the Secretary of State apply only in relation to England.

(b) SI 2003/1965 as amended by the Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) (Amendment) Regulations 2003 (SI 2003/2133).

(c) 1998 c.31.

(d) 2000 c.21.

(e) SI 2003/348 as amended by the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 (SI 2003/1916).

(f) 1996 c.56.

“governing body” means a governing body incorporated under section 36(1) of the 1998 Act, section 19(1) of the 2002 Act or these Regulations as appropriate;

“new school” has the same meaning as in the New Schools Regulations;

“the New Schools Regulations” means the New Schools (General) (England) Regulations 2003(a);

“the Procedures Regulations” means the School Governance (Procedures) (England) Regulations 2003(b); and

“the Staffing Regulations” means the School Staffing (England) Regulations 2003(c).

PART 2

ESTABLISHING OR JOINING A FEDERATION

Prescribed cases

4.—(1) Regulations 6 to 9 apply where at least two but no more than five governing bodies propose to federate in accordance with section 24 of the 2002 Act.

(2) Regulations 10 and 11 apply 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 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 be a federated school.

Procedure for schools wishing to federate

5. If, before [*coming into force date*] any action was taken which (had it been taken on or after that day) would to any extent have satisfied the requirements of regulations 6 to 9, those requirements are to that extent to be treated as satisfied.

6.—(1) Where a governing body are considering federation, they shall first consider a report on the proposal.

(2) The report shall be specified as an item on the agenda for the meeting of which notice has been given in accordance with regulation 11(4) of the Procedures Regulations.

7.—(1) Where a governing body propose that they should federate with the governing body of a federation, they shall give notice of the proposal to the governing body of the federation.

(2) Upon receipt of the notice, the governing body of the federation shall consider whether they should—

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

8.—(1) Where a governing body decide that they should federate with one or more other governing bodies and, where necessary, preliminary consent has been given, they shall jointly with the other governing body or bodies publish proposals for federation.

(2) The proposals shall contain the following—

(a) SI 2003/1558.

(b) SI 2003/1377 as amended by the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 and by the School Staffing (England) Regulations 2003 (SI 2003/1963).

(c) SI 2003/1963 as amended by the School Staffing (England) (Amendment) Regulations 2003 (SI 2003/2725).

- (a) the name or names of the governing body or bodies with which the governing body propose to federate and confirmation that that 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 6 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 shall publish the proposals by sending them to—
- (a) the relevant authorities,
 - (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 of England or Roman Catholic Church school, or the appropriate religious body in the case of any other such school,
 - (e) all staff paid to work at any of the schools,
 - (f) every person known to them to be a parent of a registered pupil at any of the schools, and
 - (g) such other persons as the governing bodies consider appropriate.
- (4) A copy of the proposals shall be made available for inspection at all reasonable times at each school.
- 9.—(1) The governing bodies proposing to federate shall jointly consider any responses to the proposals and each governing body shall 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 consider appropriate; or
 - (c) not to proceed with the proposals for federation.
- (2) The modifications referred to in paragraph (1)(b) shall not include a change in the identity of the governing bodies proposing to federate.
- (3) All the governing bodies that have determined to proceed shall jointly give notice of that fact to the relevant authority or authorities.

New schools wishing to federate

- 10.—(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 6 to 9 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 6 to 9 have effect as if—

- (a) references to the governing body proposing to federate were references to the authority or, where proposals are to establish a foundation or voluntary school proposals for the establishment of which were published by promoters, the promoters;
- (b) regulation 6(2) were omitted; and
- (c) in regulation 8(2)(a) for “the governing body propose to federate” there were substituted “the authority or the promoters propose that the temporary governing body of the new school should federate”.

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

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

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

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

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

(5) Schedule 1 shall apply to a temporary governing body constituted pursuant to this regulation.

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

12.—(1) On the federation date—

- (a) the governing bodies of the federating schools or federations shall be dissolved;
- (b) the governing body of the federation shall be incorporated;
- (c) all land and property which, immediately before the federation date, was held by the governing body of a federating school or federation shall be transferred to, and by virtue of these Regulations vest 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 shall be transferred to the governing body of the federation.

(2) Section 198 of the Education Reform Act 1988(b) (which, with Schedule 10 to that Act, makes further provision in relation to transfers of property, rights and liabilities) shall apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

(a) By virtue of section 6(c) of the Interpretation Act 1978 (c.30) words in the singular include the plural and words in the plural include the singular.
(b) 1988 c.40.

PART 3

CATEGORIES OF GOVERNOR

Parent governors

13.—(1) In these Regulations “parent governor” means—

- (a) a person who is elected in accordance with paragraphs 3 to 7 of Schedule 2 as a member of the governing body of a federation by—
 - (i) parents of registered pupils at a federated school, or
 - (ii) parents of children for whom educational or other provision is made on the premises of any maintained nursery school in the federation (including any such provision made by the governing body under section 27 of the 2002 Act),

and is himself such a parent at the time when he is elected, or

- (b) a person appointed as a parent governor in respect of a federated school in accordance with paragraphs 8 to 10 of Schedule 2.

(2) Schedule 2 shall apply to the election and appointment of parent governors.

(3) A person is disqualified from election or appointment as a parent governor of a federation if he is—

- (a) an elected member of the authority;
- (b) paid to work at the federation or a federated school for more than 500 hours in any twelve month period commencing on 1st August and finishing on 31st July.

(4) A person is not disqualified from continuing to hold office as a parent governor when he ceases to be a parent of a registered pupil at a federated school or to fulfil any of the requirements set out in paragraphs 9 and 10 of Schedule 2 (as the case may be) unless he is otherwise disqualified under these Regulations.

Staff governors

14.—(1) In these Regulations “staff governor” means—

- (a) the head teacher of a federation or of a federated school who is a staff governor by virtue of his office, unless he resigns in accordance with regulation 22(1) of the Constitution Regulations;
- (b) a person who is elected in accordance with Schedule 3 as a member of the governing body of a federation by persons who are paid to work at the federation or at a federated school and is himself a person so working at the time when he is elected.

(2) At least one staff governor (in addition to the head teacher or head teachers) shall be a school teacher unless no school teacher stands for election.

(3) Where the federation’s instrument of government(a) specifies that there shall be three or more staff governors, at least one staff governor shall be a person who is not a school teacher, unless no such person stands for election.

(4) Upon ceasing to work at the federation or school within the federation, a staff governor is disqualified from continuing to hold office as such a governor.

LEA governors

15.—(1) In these Regulations “LEA governor” means a governor appointed to be a member of the governing body of a federation by the authority that maintains the federated schools.

(a) As defined by section 20 of the 2002 Act.

(2) Where the federation includes schools which are maintained by two or more authorities, those authorities shall agree amongst themselves who shall appoint such governors and, if more than one governor is to be appointed, in what proportion.

(3) A person is disqualified from appointment as an LEA governor if he is eligible to be a staff governor.

Community governors

16.—(1) In these Regulations “community governor” means a person who is appointed as such by the governing body of a federation and who is—

- (a) a person who lives or works in the community served by the federation; or
- (b) a person who, in the opinion of the governing body, is committed to the good government and success of the federation.

(2) If one or more of the federated schools is a community special school or foundation special school (a) the governing body of the federation shall appoint as one of the community governors a person nominated in accordance with Schedule 4 in respect of each such school.

(3) A person is disqualified from appointment as a community governor if he is—

- (a) a registered pupil at one of the federated schools;
- (b) eligible to be a staff governor; or
- (c) an elected member of the authority.

Foundation governors

17.—(1) In these Regulations,

- (a) “foundation governor” means a person who is appointed to be a member of the governing body of a federation in respect of a particular federated school, otherwise than by the authority, and who—
 - (i) where the federation includes a federated school which has a particular religious character (b), is appointed for the purpose of securing that that character is preserved and developed at that federated school;
 - (ii) where the federation includes a federated school to which a trust relates, is appointed for the purpose of securing that the federated school is conducted in accordance with that trust; or
 - (iii) where the federation includes a school which has neither a religious character nor a trust, is appointed as a foundation governor of the federation by a person previously named in the federated school’s instrument of government as having the power to appoint foundation governors;
- (b) “ex officio foundation governor” means a foundation governor who is the holder of an office by virtue of which he is entitled to be a foundation governor;
- (c) “substitute governor” (c) means a foundation governor appointed to act in the place of an ex officio foundation governor who is unwilling or unable to act as a governor or has been removed from office under regulation 23(2) of the Constitution Regulations.

(2) An ex officio foundation governor is, upon ceasing to hold the office from which his governorship derives, disqualified from continuing to hold office as such a governor.

(a) Within the meaning of section 20 of the 1998 Act.

(b) As designated by Order of the Secretary of State under section 69(3) of the 1998 Act.

(c) Referred to in regulation 21 of the Constitution Regulations as it applies to federations pursuant to regulation 28 of and Schedule 7 to these Regulations.

Partnership governors

18.—(1) In these Regulations “partnership governor” means a person who is nominated as a partnership governor and appointed as such in accordance with Schedule 5.

(2) A person is disqualified from nomination or appointment as a partnership governor of a federation if he is—

- (a) a parent of a registered pupil at a school within the federation;
- (b) a registered pupil at a school within the federation;
- (c) eligible to be a staff governor of the federation;
- (d) an elected member of a relevant authority; or
- (e) employed by a relevant authority in connection with its functions as a local education authority.

Sponsor governors

19. In these Regulations “sponsor governor” means a person nominated as a sponsor governor and appointed as such by the governing body of a federation in accordance with Schedule 6.

Associate members

20.—(1) In these Regulations “associate member” means a person appointed by the governing body of a federation as a member of any committee established by it but who is not a governor.

(2) An associate member shall hold office for a period of four years or such shorter period (not being less than one year) as may be determined by the governing body of a federation at the date of his appointment.

(3) Nothing in this regulation shall prevent an associate member from being reappointed at the expiration of his term of office.

(4) Any person who is disqualified from holding office as a governor of a school under Schedule 6 to the Constitution Regulations is likewise disqualified from appointment as, or from continuing as, an associate member of the governing body of a federation, save as provided in paragraph 1 of Schedule 6 to the Constitution Regulations.

PART 4

COMPOSITION OF GOVERNING BODIES OF A FEDERATION

General principles

21.—(1) Subject to paragraphs (2) and (3), the instrument of government^(a) for a federation shall specify the size of the membership of the governing body of the federation, being no fewer than 9 or more than 20 governors.

(2) Where a federation contains 4 schools and—

- (a) each federated school has a head teacher, the size of the membership of the governing body may be 21 governors;
- (b) at least 2 schools are voluntary aided schools, and there are at least 3 head teachers who are entitled to be staff governors by virtue of their office, the size of the membership of the governing body may be no more than 24 governors.

(3) Where a federation contains 5 schools and—

^(a) Defined by section 20 of the 2002 Act.

- (a) each federated school has a head teacher, the size of the membership of the governing body may be no more than 22 governors;
 - (b) at least 3 schools are voluntary aided schools, and there are 4 head teachers who are entitled to be staff governors by virtue of their office, the size of the membership of the governing body may be no more than 26 governors;
 - (c) at least 3 schools are voluntary aided schools and there are 5 head teachers who are entitled to be staff governors by virtue of their office, the size of the membership of the governing body may be no more than 28 governors.
- (4) In determining the size of the membership of the governing body of a federation any sponsor governors shall not be included.
- (5) Subject to regulations 22 to 27, the instrument of government shall specify the numbers of governors from each of the following categories of governor to be elected or appointed—
- (a) parent governors;
 - (b) staff governors;
 - (c) LEA governors;
 - (d) community governors;
 - (e) foundation governors;
 - (f) partnership governors;
 - (g) sponsor governors.
- (6) Where application of this regulation and regulations 22 to 27 produces a number other than a whole number, the governing body shall specify either the whole number next above or the whole number next below (at their choice) provided that the total number of governors may not exceed the limit set in this regulation.
- (7) In calculating the number of staff governors required, the head teachers must be included whether or not the head teacher of the federation, or any head teacher of a federated school, has resigned his governorship.

Federation comprising community, community special and maintained nursery schools

- 22.—(1) The governing body of a federation containing any combination of community schools, community special schools and maintained nursery schools^(a) (and no other category of school) shall consist of the following—
- (a) one third or more shall be parent governors, provided always that for each federated school at least one parent governor shall be elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;
 - (b) at least two but no more than one third shall be staff governors;
 - (c) one fifth shall be LEA governors;
 - (d) one fifth or more shall be community governors.
- (2) The governing body of the federation may in addition appoint up to two sponsor governors.

Federation comprising foundation or foundation special schools only

- 23.—(1) The governing body of a federation containing foundation schools or foundation special schools^(b) only shall consist of the following—
- (a) at least one third shall be parent governors, provided always that for each federated school at least one parent governor shall be elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;

^(a) Within the meaning of section 20 of the 1998 Act and section 39(1) of the 2002 Act.

^(b) Within the meaning of section 20 of the 1998 Act.

- (b) at least two but no more than one third shall be staff governors;
- (c) at least one but no more than one fifth shall be LEA governors;
- (d) at least one tenth shall be community governors;
- (e) at least two but no more than one quarter shall be foundation governors (or partnership governors, as appropriate in respect of any school without a foundation).

(2) The governing body of the federation may in addition appoint up to two sponsor governors.

Federation comprising voluntary controlled schools only

24.—(1) The governing body of a federation containing voluntary controlled schools^(a) only shall consist of the following—

- (a) one third or more shall be parent governors, provided always that for each federated school at least one parent governor shall be elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;
- (b) at least two but no more than one third shall be staff governors;
- (c) at least one but no more than one fifth shall be LEA governors;
- (d) one tenth or more shall be community governors;
- (e) at least two but no more than one quarter shall be foundation governors.

(2) The governing body of the federation may in addition appoint up to two sponsor governors.

Federation comprising voluntary aided schools only

25.—(1) The governing body of a federation containing voluntary aided schools^(b) only shall consist of the following—

- (a) for each federated school at least one parent governor elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;
- (b) at least two but no more than one third shall be staff governors;
- (c) at least one but no more than one tenth shall be LEA governors;
- (d) such number of foundation governors as outnumber all the other governors listed in sub-paragraphs (a) to (c) by two;
- (e) such number of foundation governors appointed in accordance with paragraph (3) as, when they are counted with the parent governors, comprise one third or more of the total membership of the governing body.

(2) In addition—

- (a) the persons who are entitled to appoint foundation governors may appoint such number of additional foundation governors (up to two) as are required to preserve their majority;
- (b) the governing body of the federation may appoint up to two sponsor governors.

(3) One fifth or more of the persons appointed as foundation governors to the governing body of a federation containing voluntary aided schools only must be persons who are eligible for election or appointment as parent governors.

^(a) Within the meaning of section 20 of the 1998 Act.
^(b) Within the meaning of section 20 of the 1998 Act.

Federation comprising voluntary controlled schools and community, community special or maintained nursery schools

26.—(1) The governing body of a federation containing at least one voluntary controlled school and at least one community school, community special school or maintained nursery school shall consist of the following—

- (a) one third or more shall be parent governors, provided always that for each federated school at least one parent governor shall be elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;
- (b) at least two but no more than one third shall be staff governors;
- (c) at least two but no more than one fifth shall be LEA governors;
- (d) at least two shall be community governors;
- (e) at least one shall be a foundation governor.

(2) The governing body of the federation may in addition appoint up to two sponsor governors.

Federation comprising more than one category of school including at least one foundation or foundation special or voluntary aided school

27.—(1) The governing body of a federation containing—

- (a) more than one category of school, and
- (b) at least one foundation school, foundation special school or voluntary aided school,

shall be constituted in accordance with paragraph (2).

(2) The governing body of a federation to which paragraph (1) applies shall consist of the following—

- (a) for each federated school at least one parent governor shall be elected or appointed in accordance with regulation 13(1) to represent the interests of such parents;
- (b) at least two but not more than one third shall be staff governors;
- (c) at least two but no more than one fifth shall be LEA governors;
- (d) at least two shall be community governors;
- (e) at least two shall be foundation governors (or partnership governors as appropriate in respect of any school without a foundation).

(3) The governing body of the federation may, in addition, appoint up to two sponsor governors.

PART 5

INSTRUMENTS OF GOVERNMENT, PROCEDURES, STAFFING AND CHARITABLE STATUS

Qualifications, tenure of office and instruments of government

28. Regulations 17 (*Notification of appointments*), 18 (*Joint appointments*) and 20 to 32 of, and Schedule 6 (*Qualifications and disqualifications*) to, the Constitution Regulations shall apply to the governing body of a federation and its members subject to the modifications in Schedule 7.

Procedures of governing bodies of federations

29. The Procedures Regulations shall apply to the procedure of governing bodies of federations subject to the modifications in Schedule 8.

Staffing of federations

30. The Staffing Regulations shall apply to the staffing of federations subject to the modifications in Schedule 9.

Charitable status of federations

31.—(1) The governing body of a federation which includes a foundation, voluntary or foundation special school shall be a charity which is an exempt charity for the purposes of the Charities Act 1993(a), but no governing body of a federation which includes only community, community special or maintained nursery schools shall be a charity.

(2) So far as it is a charity, any institution which—

- (a) is administered by or on behalf of any governing body of a federation which includes a foundation, voluntary or foundation special school; and
- (b) is established for the general purposes of, or for any special purpose of, or in connection with, that body or that federation or any foundation, voluntary or foundation special school within that federation,

shall also be an exempt charity for the purposes of the Charities Act 1993.

(3) In this regulation, “charity” and “institution” have the same meaning as in the Charities Act 1993.

PART 6

INFORMATION AND FUNDING

Information for the governing body of a federation

32.—(1) Immediately before the federation date, the governing body of a school which is to become a federated school shall prepare, for the purpose of assisting the governing body of the federation, a written report on the action which they have taken in the discharge of their functions relating to the school.

(2) All minutes and papers of a governing body of a school which is to become a federated school on the federation date, including the report prepared under paragraph (1), shall be made available to the governing body of the federation.

Financing of federations

33. Except as provided by regulation 34, Chapter 4 of Part 2 of the 1998 Act (financing of maintained schools) applies to federated schools and their governing bodies as it applies to other maintained schools and their governing bodies.

34.—(1) In its application to a federated school in England, other than one for which a temporary governing body is established pursuant to regulation 39 or 44, section 50 of the 1998 Act (effect of financial delegation) shall have effect subject to the following modifications.

(2) In subsection (1), for “maintained” there shall be substituted “federated”.

(3) In subsection (2) for “any amounts are made available by the authority to the governing body” there shall be substituted “any amounts in respect of a federated school are made available by the authority to the governing body of a federation”.

(4) In subsection (3)—

(a) 1993 c.10. This regulation modifies section 23 of the School Standards and Framework Act 1998 in its application to schools forming part of a federation or to the governing bodies of federations, in each case comprising schools within different categories.

- (a) for “the governing body may spend any such amounts” there shall be substituted “the governing body of a federation may spend any amounts made available under subsection (2), or previously made available to the governing bodies of the federated schools before federation”, and
- (b) for paragraph (a) there shall be substituted—
 - “(a) for any purposes of the federated school to which the amounts relate;
 - (ab) for any purposes of any other federated school within the federation;
 - (ac) for any purposes of the federation; or”.
- (5) In subsection (4) for “In subsection (3) “purposes of the school” does not include” there shall be substituted “In subsection (3)(a), (ab) and (ac) any reference to the purposes of a federated school or a federation does not include”.
- (6) In subsection (6), for “the head teacher” there shall be substituted “the head teacher of the federation or to the head teachers of federated schools”.
- (7) In subsection (7), for “school” there shall be substituted “federation”.

PART 7

FEDERATED SCHOOLS LEAVING FEDERATIONS

Procedure for a school to leave a federation

- 35.—(1) This regulation applies to a request made to a governing body of a federation for a federated school (“the relevant school”) to leave the federation.
- (2) The request must be made in writing and signed by—
 - (a) two or more governors;
 - (b) one fifth of the parents of registered pupils at the relevant school;
 - (c) two fifths of staff who are paid to work at the relevant school;
 - (d) the authority;
 - (e) the trustees of the relevant school; or
 - (f) a body entitled to appoint foundation governors to the governing body of the federation.
 - (3) The governing body of the federation shall give notice of the request to—
 - (a) all relevant authorities,
 - (b) the head teacher of the federation and the head teacher of each federated school,
 - (c) where the relevant school is a foundation or voluntary school with a religious foundation, any trustees of a trust relating to the relevant school and, in the case of a Church of England or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools,
 - (d) all staff paid to work at the relevant school,
 - (e) every person known by them to be a parent of a registered pupil at the relevant school, and
 - (f) such other persons as the governing body of the federation consider appropriate.
 - (4) Notice under paragraph (3)(a) and (b) must be given within the period of 5 days beginning with the date on which the request was received.
 - (5) A request under paragraph (1) shall be taken to have been received by a governing body of a federation if given or sent to the chair or to the clerk of the governing body of a federation.
 - (6) Not less than 14 days after the governing body of a federation have given notice of the request in accordance with paragraph (3), the governing body shall consider the request and all

responses received from the persons to whom notification of the request was sent and shall decide whether—

- (a) the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”);
- (b) the federation should be dissolved, and if so, on what date; or
- (c) the relevant school should not leave the federation.

(7) Such a decision shall 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 11(4) of the Procedures Regulations.

(8) The governing body of a federation shall give notice in writing of their decision under paragraph (6) within 5 days to those persons referred to in paragraph (3).

Referral to the Secretary of State

36.—(1) Not more than 15 days after the day on which a notice of the governing body of the federation’s decision under regulation 35(6)(c) was given, any of the persons referred to in regulation 35(3) may refer the matter to the Secretary of State and, if they do so, shall inform the governing body of the federation.

(2) On a reference under this regulation the Secretary of State shall determine that—

- (a) the federated school shall leave the federation; or
- (b) the federated school shall not leave the federation.

(3) Upon receiving the Secretary of State’s determination the governing body of a federation shall within 5 school days inform those referred to in regulation 35(3) of the Secretary of State’s determination and its effect.

Decision to permit federated school to leave a federation

37.—(1) Upon notification that either—

- (a) a governing body of a federation have resolved that a federated school should leave a federation, or
- (b) the Secretary of State has determined that a federated school should leave a federation,

paragraphs (2) or (3) shall apply.

(2) Where one of only two federated schools is to leave a federation, the federation shall be dissolved in accordance with Part 8.

(3) Where paragraph (2) does not apply,

- (a) the authority shall—
 - (i) establish a temporary governing body in respect of the school leaving the federation in accordance with Parts 3 and 4 of the New Schools Regulations; and
 - (ii) issue a new instrument of government for that school in accordance with Part 5 of the Constitution Regulations^(a);
- (b) the governing body of the federation shall review the instrument of government of the federation in accordance with regulation 31 of the Constitution Regulations.

Availability of amounts representing budget share

38. Subject to any provision made by or under a scheme made under section 48(1) of the 1998 Act, the temporary governing body of a school leaving a federation may spend any sum made available by the authority under section 50(1) of that Act^(b) to the governing body of the

^(a) As modified by Schedule 7 to these Regulations.

^(b) As modified by regulation 34 of these Regulations.

federation in respect of the school leaving the federation, as they think fit for any purposes of that school.

Incorporation of governing body of a school leaving a federation

39. On the de-federation date the temporary governing body of the de-federated school shall be incorporated as the governing body of that school under the name given in the school's instrument of government.

Transfer of property

40.—(1) On the de-federation date—

- (a) all land or property, which, immediately before the de-federation date, was held by the governing body of the federation for the purposes of the de-federated school shall be transferred to, and by virtue of these Regulations vest in, the governing body incorporated under regulation 39; and
- (b) all rights and liabilities subsisting immediately before the de-federation date which were acquired or incurred by the governing body of the federation for the purposes of the de-federated school shall be transferred to the governing body incorporated under regulation 39.

(2) Section 198 of and Schedule 10 to the Education Reform Act 1988(a) (which make provision in relation to transfers of property, rights and liabilities) shall apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

PART 8

DISSOLUTION OF FEDERATIONS

Dissolution of federations

41.—(1) Where—

- (a) a governing body of a federation decide that the federation should be dissolved,
- (b) a governing body of a federation decide that one of only two federated schools should leave a federation, or
- (c) the Secretary of State determines that one of only two federated schools should leave a federation,

the governing body of a federation shall give notice of the fact and the proposed date of dissolution to the persons mentioned in paragraph (2) within 14 days.

(2) The persons to be notified are—

- (a) all relevant authorities;
- (b) the head teacher of the federation and each head teacher of a federated school;
- (c) every member of staff paid to work at the federation or a federated school;
- (d) every person known by the governing body to be a parent of a registered pupil at a federated school;
- (e) where a federated school is a foundation or voluntary school with a religious foundation, the foundation governors, any trustees of a trust relating to the federated school and, in the case of a Church of England or Roman Catholic Church school, the

(a) 1988 c.40.

appropriate diocesan authority, or the appropriate religious body in the case of all other such schools; and

(f) such other persons as the governing body of the federation consider appropriate.

42. Upon receipt of the notice issued under regulation 41, the relevant authority or authorities shall—

(a) establish a temporary governing body in respect of each school in accordance with Parts 3 and 4 of the New Schools Regulations; and

(b) issue a new instrument of government for each school in accordance with Part 5 of the Constitution Regulations.

Availability of amounts representing budget share

43. Subject to any provision made by or under a scheme made under section 48(1) of the 1998 Act, the temporary governing body of each school may spend any sum made available by the authority under section 50(1) of that Act(a) to the governing body of the federation in respect of each school, as they think fit for any purposes of that school.

Incorporation of governing body of a school leaving a federation

44. On the date of dissolution the temporary governing body of each federated school shall be incorporated as the governing body of each de-federated school under the name given in the school's instrument of government.

Transfer of property

45.—(1) On the date of dissolution—

(a) all land or property which, immediately before the date of dissolution, was held by the governing body of the federation for the purposes of each de-federated school shall be transferred to, and by virtue of these Regulations vest in, the new governing body of each de-federated school incorporated under regulation 44, and

(b) all rights and liabilities subsisting immediately before the date of dissolution which were acquired or incurred by the governing body of the federation for the purposes of each de-federated school shall be transferred to the new governing body of each de-federated school incorporated under regulation 44.

(2) Section 198 of and Schedule 10 to the Education Reform Act 1988(b) (which make provision in relation to transfers of property, rights and liabilities) shall apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

29th July 2004

Alan Johnson
Minister of State
Department for Education and Skills

(a) As modified by regulation 34 of these Regulations.

(b) 1988 c.40.

Temporary governing bodies of new schools intending to federate

General principles

1. The size of the membership of the temporary governing body, being no fewer than 9 and, subject to paragraph 2, no more than 20 temporary governors, shall be determined by the authority.

2.—(1) Where the federation contains 4 new schools and—

- (a) each new school has a head teacher, the size of the membership of the temporary governing body may be 21 temporary governors;
- (b) at least 2 schools are proposed voluntary aided schools, and there are at least 3 head teachers who are entitled to be temporary staff governors by virtue of their office, the size of the membership of the temporary governing body may be no more than 24 temporary governors.

(2) Where the federation contains 5 new schools and—

- (a) each new school has a head teacher, the size of the membership of the temporary governing body may be no more than 22 temporary governors;
- (b) at least 3 schools are proposed voluntary aided schools, and there are 4 head teachers who are entitled to be temporary staff governors by virtue of their office, the size of the membership of the temporary governing body may be no more than 26 temporary governors;
- (c) at least 3 schools are proposed voluntary aided schools and there are 5 head teachers who are entitled to be temporary staff governors by virtue of their office, the size of the membership of the temporary governing body may be no more than 28 temporary governors.

3. In determining the size of the temporary governing body, the authority shall not include—

- (a) any temporary sponsor governors; or
- (b) any additional temporary foundation governors appointed in accordance with paragraph 9(2).

4. Where application of paragraphs 6 to 11 produces a number other than a whole number, the authority shall specify either the whole number next above or the whole number next below (at their choice) provided that the total number of governors may not exceed the limits set in paragraphs 1 and 2.

5. In calculating the number of temporary staff governors required, the head teacher of the federation and the head teacher or head teacher designate of each school shall be included whether or not he has resigned his governorship.

Temporary governing body for new community, community special or maintained nursery schools

6. A temporary governing body constituted for two or more proposed community schools, proposed community special schools or proposed maintained nursery schools only, shall be composed as follows—

- (a) one third or more shall be temporary parent governors, provided always that for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;

- (c) one fifth shall be temporary LEA governors; and
- (d) one fifth or more shall be temporary community governors.

Temporary governing body for new foundation or foundation special schools

7. A temporary governing body constituted for two or more proposed foundation schools or foundation special schools only, shall be composed as follows—

- (a) at least one third shall be temporary parent governors, provided always that for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;
- (c) at least two but no more than one fifth shall be temporary LEA governors;
- (d) at least one tenth shall be temporary community governors;
- (e) at least two but no more than one quarter shall be temporary foundation governors (or temporary partnership governors as appropriate in respect of any school without a foundation).

Temporary governing body for new voluntary controlled schools

8. A temporary governing body constituted for two or more proposed voluntary controlled schools only, shall be composed as follows—

- (a) one third or more shall be temporary parent governors, provided always that for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;
- (c) at least one but no more than one fifth shall be temporary LEA governors;
- (d) one tenth or more shall be temporary community governors;
- (e) at least two but no more than one quarter shall be temporary foundation governors.

Temporary governing body for new voluntary aided schools

9.—(1) A temporary governing body constituted for two or more proposed voluntary aided schools only, shall be composed as follows—

- (a) for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;
- (c) at least one but no more than one tenth shall be temporary LEA governors;
- (d) such number of temporary foundation governors as outnumber all the other temporary governors listed in sub-paragraphs (a) to (c) by two.

(2) In addition, the person who is entitled to appoint temporary foundation governors may appoint such number of additional temporary foundation governors (up to two) as are required to preserve their majority.

Temporary governing body for new voluntary controlled schools and community, community special or maintained nursery schools

10. A temporary governing body constituted for at least one proposed voluntary controlled school and at least one proposed community school, community special school or proposed maintained nursery school shall be composed as follows—

- (a) one third or more shall be temporary parent governors, provided always that for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;
- (c) at least two but no more than one fifth shall be temporary LEA governors;
- (d) at least two shall be temporary community governors; and
- (e) at least one shall be a temporary foundation governor.

Temporary governing body for proposed federation comprising more than one category of school including at least one new foundation or foundation special or voluntary aided school

11. A temporary governing body constituted for more than one category of school and at least one proposed foundation school, foundation special school or voluntary aided school shall be composed as follows—

- (a) for each proposed school at least one temporary parent governor shall be appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
- (b) at least two but no more than one third shall be temporary staff governors;
- (c) at least two but no more than one fifth shall be temporary LEA governors;
- (d) at least two shall be temporary community governors;
- (e) at least two shall be temporary foundation governors (or temporary partnership governors as appropriate in respect of any school without a foundation).

Temporary sponsor governors

12. A temporary governing body constituted in accordance with paragraphs 6 to 11 may, in addition, appoint up to two temporary sponsor governors.

SCHEDULE 2

Regulation 13

Election and appointment of parent governors

1. Subject to paragraph 2(2), in this Schedule “appropriate body” means—
 - (a) the authority where the federated school is a community school, community special school, a voluntary controlled school or a maintained nursery school; or
 - (b) the governing body of the federation where the federated school is a foundation school, foundation special school or voluntary aided school.
- 2.—(1) Where an authority is the appropriate body in relation to a school, that authority may delegate to the head teacher of the school, or to the head teacher of the federation, any of its functions under this Schedule.

(2) The authority shall be the appropriate body in relation to a school within paragraph 1(b) if the governing body of the federation and the authority so agree.
3. The appropriate body shall make all necessary arrangements for the election of parent governors.
4. The duty conferred by paragraph 3 does not include power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected.
5. Any election which is contested shall be held by ballot.

6.—(1) The arrangements made under paragraph 3 shall provide for every person who is entitled to vote to have an opportunity to do so by post.

(2) For the purposes of sub-paragraph (1), “post” includes delivery by hand.

(3) The arrangements made under paragraph 3 may provide for every person who is entitled to vote to have an opportunity to do so by electronic means.

7. Where a vacancy for a parent governor arises, the authority shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—

- (a) informed of the vacancy and that it is required to be filled by election;
- (b) informed that he is entitled to stand as a candidate and vote in the election; and
- (c) given the opportunity to do so.

8. The number of parent governors required shall be made up of parent governors appointed by the governing body if one or more vacancies for parent governors arises and either—

- (a) the number of parents standing for election is less than the number of vacancies;
- (b) at least 50 per cent of the registered pupils at the school are boarders and it would, in the opinion of the authority, be impractical for there to be an election of parent governors; or
- (c) in the case of a school which is a community special school established in a hospital, it would, in the opinion of the authority, be impractical for there to be an election of parent governors.

9.—(1) Except where paragraph 10 applies, in appointing a parent governor to represent a federated school, the governing body of a federation shall appoint—

- (a) a parent of a registered pupil at the school (or, in respect of any maintained nursery school in the federation, a parent of a child for whom educational or other provision is made on the premises of the school (including any such provision made by the governing body under section 27 of the 2002 Act)),
- (b) a parent of a registered pupil at another school within the federation;
- (c) a parent of a former registered pupil at the school;
- (d) a parent of a former registered pupil at a school within the federation; or
- (e) a parent of a child.

(2) The governing body shall only appoint a person referred to in sub-paragraph (1)(b), (c), (d) or (e) if it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.

10.—(1) Where the school is a community special school, in appointing a parent governor the governing body of a federation shall appoint—

- (a) a parent of a registered pupil at the school;
- (b) a parent of a former pupil at the school;
- (c) a parent of a child with special educational needs for which the school is approved; or
- (d) a parent with experience of a child with special educational needs.

(2) The governing body of a federation shall only appoint a person referred to in sub-paragraph (1)(b), (c) or (d) if it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.

SCHEDULE 3

Regulation 14

Election of staff governors

1. Subject to paragraphs 2 and 3, the governing body of the federation shall make all necessary arrangements for the election of staff governors.
2. The power conferred by paragraph 1—
 - (a) includes the power to make provision as to qualifying dates, but
 - (b) does not include power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected.
3. Any election which is contested shall be held by ballot.

SCHEDULE 4

Regulation 16

Appointment of community governors in federations which include community special schools

1. Subject to paragraphs 2 and 3, the governing body of a federation which includes a community special school shall appoint community governors in accordance with regulation 16(1).
- 2.—(1) In relation to a community special school established in a hospital, the authority shall designate either—
 - (a) one or more primary care trusts,
 - (b) the National Health Service trust, or
 - (c) the NHS foundation trust,

with which the school is most closely connected as the appropriate body.

(2) The governing body of a federation shall invite the appropriate body to nominate (and if more than one, jointly) a person to be appointed as one of the community governors in accordance with regulation 16(2).

(3) For the purposes of this Schedule—

“National Health Service trust” means a body established by the Secretary of State under section 5 of the National Health Service and Community Care Act 1990(a);

“primary care trust” means a body established under section 16A of the National Health Service Act 1977(b);

“NHS foundation trust” means a body established under section 1 of, and Schedule 1 to, the Health and Social Care (Community Health and Standards) Act 2003(c).

3. The governing body of a federation which includes a community special school not established in a hospital shall appoint as one of their community governors—
 - (a) if a voluntary organisation is designated by the authority, in relation to the school, 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, a person (if any) nominated by those organisations acting jointly.

(a) 1990 c.19 as amended by the Health Act 1999 (c.8).

(b) 1977 c.49 as amended by the Health Act 1999.

(c) 2003 c.43.

SCHEDULE 5

Regulation 18

Partnership Governors

1. Where a partnership governor is required, the governing body of a federation—
 - (a) must seek nominations from parents of registered pupils at schools in the federation which have no foundation, and
 - (b) may seek nominations from parents of registered pupils at other schools in the federation and from such other persons in the community served by the federation as they consider appropriate.
2. No person may nominate for appointment, or appoint, a person as a partnership governor unless that person would be eligible for appointment by the governing body of the federation as a community governor.
3. Subject to paragraph 4(2), no governor may nominate a person for appointment as a partnership governor.
- 4.—(1) The governing body must appoint such number of partnership governors as is required by the instrument of government from among eligible nominees.
 - (2) If the number of eligible nominees is less than the number of vacancies, the number of partnership governors required may be made up by persons selected by the governing body of the federation.
- 5.—(1) Where the governing body of a federation makes an appointment under paragraph 4(2), having rejected any person nominated under paragraph 1, it must give written reasons for its decision to the authority and to the person rejected.
 - (2) Where the federation includes schools maintained by more than one authority, the reference in sub-paragraph (1) to the authority shall be taken as a reference to each authority.
6. The governing body of a federation must make all necessary arrangements for and determine all other matters relating to the nomination and appointment of partnership governors.

SCHEDULE 6

Regulation 19

Appointment of sponsor governors

1. In this Schedule, “sponsor” in relation to a federation means—
 - (a) a person who gives or has given substantial financial assistance (which for these purposes includes benefits in kind) to the federation or to a federated school other than pursuant to statutory obligation; or
 - (b) any other person (not being otherwise represented on the governing body of a federation) who provides or has provided substantial services to the federation or to a federated school.
2. Where the federation has one or more sponsors, the governing body of a federation may determine that the instrument of government shall provide for the governing body of a federation to appoint such number of sponsor governors, not exceeding two, nominated in accordance with paragraph 3.
3. The governing body of a federation shall seek nominations for such appointments from the federation’s or federated school’s sponsor or (as the case may be) from one or more of the federation’s or federated school’s sponsors.

Modification of the Constitution Regulations

1. In regulation 21(2) for “head teacher of the school” there shall be substituted “head teacher of the federation or a federated school”.

2. In regulation 25 for “paragraphs 9 to 11 of Schedule 1” there shall be substituted “paragraphs 8 to 10 of Schedule 2 to the School Governance (Federations) (England) Regulations 2004”.

3. In regulation 27 for “school” there shall be substituted “federated school”.

4. In regulation 29—

- (a) in paragraph (1) for “maintained school” there shall be substituted “federation”;
- (b) in paragraph (1)(a), (c) and (f) for “school” there shall be substituted “federation”;
- (c) for paragraph (1)(b) there shall be substituted the following paragraph—
 - “(b) the names and categories of the federated schools within the federation;”;
- (d) in paragraph (1)(d) for “Part 3” there shall be substituted “Part 4 of the School Governance (Federations) (England) Regulations 2004”;
- (e) in paragraph (1)(d)(ii) for “regulation 16(2)(b)” there shall be substituted “regulation 25(2) of the School Governance (Federations) (England) Regulations 2004”;
- (f) in paragraph (1)(g) for “the school” there shall be substituted “the federation” and for “Schedule 5” there shall be substituted “regulation 19 of and Schedule 6 to the School Governance (Federations) (England) Regulations 2004”;
- (g) in paragraph (1)(h) for “the school is” there shall be substituted “the federation includes” and for “Schedule 3” there shall be substituted “regulation 16 of and Schedule 4 to the School Governance (Federations) (England) Regulations 2004”;
- (h) in paragraphs (1)(i) and (3) for “the school” there shall be substituted “a federated school”;
- (i) for paragraph (1)(j) there shall be substituted the following sub-paragraph—
 - “(j) where a federated school is a foundation or voluntary school which has a religious character, a single description of the religious ethos of each such school”;
- (j) in paragraph (2) for “these Regulations as they apply to a school of the category to which the schools belong” there shall be substituted “regulations 21 to 27 of the School Governance (Federations) (England) Regulations 2004”.

5. For regulation 30, there shall be substituted—

“30.—(1) In this regulation, where reference is made to the local education authority and the federation is to include schools maintained by different local education authorities, the reference shall be taken as a reference to whichever of those local education authorities the governing bodies of the schools agree between them should make the instrument of government for the federation.

(2) The governing bodies of the schools which are to form the federation shall jointly prepare a draft instrument of government and submit it to the local education authority.

(3) Where the federation will have foundation governors, the governing bodies of the proposed federation shall not submit the draft to the local education authority unless it has been approved in respect of each foundation or voluntary school by—

- (a) that school’s foundation governors;
- (b) the trustees of any trust relating to such a school;

- (c) in the case of a Church of England or Roman Catholic Church school, the appropriate diocesan authority; and
- (d) in the case of any other school designated under section 69(3) of the 1998 Act as having a religious character, the appropriate religious body.

(4) If—

- (a) the local education authority are content that the draft complies with all the applicable statutory provisions, or
- (b) there is agreement between the local education authority, the governing bodies and (where the federation will have foundation governors) the persons mentioned in paragraph (3) that the draft should be revised to any extent, and the revised draft complies with all the applicable statutory provisions,

the instrument of government shall be made by the local education authority in the form of the draft or (as the case may be) the revised draft.

(5) If, in the case of a federation which will have foundation governors, there is at any time disagreement as to the content of the draft among the persons mentioned in paragraph (3), any of those persons may refer the draft to the Secretary of State who shall give such direction as he thinks fit having regard, in particular, to the category of schools which are proposed to be included within the federation.

(6) If neither of sub-paragraphs (a) and (b) of paragraph (4) applies in the case of a federation which will not have foundation governors, the local education authority must—

- (a) inform the governing body of the federation of the reasons why it is not content with the draft instrument of government, and
- (b) give the governing body of the federation a reasonable opportunity to reach agreement with it on revising the draft;

and the instrument of government must be made by the local education authority either in the form of a revised draft agreed between it and the governing body of the federation or (in the absence of such agreement) in such form as it thinks fit having regard, in particular, to the category of school to which the school belongs.”.

6. In regulation 31—

- (a) in paragraphs (4) to (7)—
 - (i) for “school” there shall be substituted “federation”; and
 - (ii) for “regulation 30(2)” there shall be substituted “regulation 30(3)(a)”;
- (b) in paragraphs (6) and (7) the words “having regard, in particular, to the category of school to which the school belongs” shall be omitted; and
- (c) in paragraph (9) for “regulation 30(3) there shall be substituted “regulation 30(4)(b)”.

7. In regulation 32—

- (a) in paragraphs (1) and (2)(a) for “school” there shall be substituted “federation”;
- (b) in paragraph (2) after sub-paragraph (a) there shall be inserted—
 - “(aa) the Secretary of State;”;
- (c) in paragraph (2)(b) for “head teacher” there shall be substituted “head teacher of the federation or of a federated school”;
- (d) in paragraph (2)(c) for “the school” there shall be substituted “a federated school”; and
- (e) in paragraph (2)(d) and (e) for “school” there shall be substituted “federated school”.

(a) As substituted by paragraph 5 of Schedule 7 of the School Governance (Federations) (England) Regulations 2004 (SI 2004/).

(b) As substituted by paragraph 5 of Schedule 7 of the School Governance (Federations) (England) Regulations 2004 (SI 2004/).

8. In paragraph 1(2) of Schedule 6 for “regulation 11” there shall be substituted “regulation 20 of the School Governance (Federations) (England) Regulations 2004”.

SCHEDULE 8

Regulation 29

Modification of the Procedures Regulations

1. In regulation 3—

(a) in paragraph (1) for “regulation 11 of the Constitution Regulations” there shall be substituted “regulation 20 of the School Governance (Federations) (England) Regulations 2004”; and

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) In these Regulations, where reference is made to the local education authority and a federation includes schools maintained by more than one local education authority, the reference shall be taken as a reference to each local education authority.”

2. In regulation 5 for paragraph (3) there shall be substituted the following paragraph—

“(3) A governor who is paid to work at the federation or at a federated school or who is a pupil at a federated school is not eligible to be chair or vice-chair of the governing body of the federation in question.”

3. In regulations 5(5)(b), 6(2)(a), 6(2)(c), 8(3)(c), 13(3)(a), 14(1)(b), 14(2), 14(4), 14(5), 15(1)(a), 15(1)(d) and 24(9)(a) and paragraphs 1(2)(a) and 3(1) and (2) of the Schedule(a) for “school” there shall be substituted “federation or a federated school”.

4. In regulations 10(1)(b), 21(1) and 23(1)(b) for “head teacher of the school” there shall be substituted “head teacher of the federation or of a federated school”.

5. In regulation 8(6) for “If at any time the school does not have delegated budget” there shall be substituted “If at any time no federated school has a delegated budget”.

6. In regulations 6(2)(b), 11(5)(c), 12(4), 13(3)(b), 17(3) and 24(9)(b) for “the school” there shall be substituted “a federated school”.

7. In regulations 8(4), 11(4)(b), 14(1)(a)(b), 16(1)(c), 18(1)(b), 21(2) and 24(2) and paragraph 3(2) of the Schedule for “head teacher” there shall be substituted “head teacher of the federation or of a federated school”.

8. In regulation 15(1) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) that the governor has acted in a way that is inconsistent with the ethos or with the religious character of a federated school and has brought or is likely to bring the federation, a federated school, the governing body or his office into disrepute; or”.

9. In regulation 19 for “school staff” there shall be substituted “staff of the federation or federated school”.

10. In paragraph 2(1)(c) of the Schedule for “Schedule 5 to the Constitution Regulations” there shall be substituted “Schedule 6 to the School Governance (Federations) (England) Regulations 2004”.

(a) As substituted by regulation 4 of the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 (SI 2003/1916).

(b) As substituted by regulation 3 of the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003.

Modification of the Staffing Regulations

1. In regulation 3, after paragraph (4) there shall be inserted the following paragraph—
 - “(5) In these Regulations—
 - (a) any reference to the head teacher or deputy head teacher of a school is to be construed as a reference to the head teacher or deputy head teacher of a federation or of a federated school;
 - (b) where reference is made to the authority and a federation includes schools maintained by more than one authority, the reference shall be taken as a reference to each authority.”
2. In regulation 5, after “sending a copy to the” there shall be inserted “relevant”.
3. In regulations 4(4), 6(1)(a) and (b), 7 and 25(1) for “school” there shall be substituted “federation or federated school”.
4. In regulation 10 after the words “This Part applies to” there shall be inserted the words “federated schools which are”.
5. In regulation 16 for paragraph (1) there shall be substituted the following paragraph—
 - “16.—(1) Subject to regulation 18—
 - (a) both the governing body and the head teacher of the federation shall have the power to suspend any person employed, or engaged otherwise than under a contract of employment, to work at the federation; and
 - (b) both the governing body and the head teacher of a federated school shall have the power to suspend any person employed to work, or engaged otherwise than under a contract of employment, at that federated school, where, in the opinion of the governing body or (as the case may be) the head teacher, his suspension is required.”
6. In regulation 17 and paragraphs 2(2), 2(3) and 2(6)(a) and (b) of the Schedule for “school” there shall be substituted “federation or a federated school”.
7. In regulation 18(1) for “work at a school” there shall be substituted “work at a federation or a federated school”.
8. In regulation 18(3) for “work at the school” there shall be substituted “work at the federation or a federated school”.
9. In regulation 19 after the words “This Part applies to” there shall be inserted the words “federated schools which are”.
10. In regulation 22, after paragraph (3) insert—
 - “(3A) The foundation governors appointed in respect of a particular federated voluntary aided school must agree any recommendation at paragraph (3)(c) in respect of the head teacher of that school.”
11. In regulation 27 after the words “voluntary aided school” there shall be inserted “which is a federated school”.
12. In regulation 28(2) for “school or schools” there shall be substituted “school, federated school or federation”.

13. In regulations 30(1) and 31(2) for sub-paragraphs (a), (b) and (c) there shall be substituted the following sub-paragraphs—

- “(a) the head teacher of one or more of the collaborating schools, federated schools or federations;
- (b) one or more of the governors from any of the collaborating governing bodies; or
- (c) one or more head teachers with one or more governors from any of the collaborating schools, federated schools or federations.”.

14. In regulation 33 after the words “school” there shall be inserted the words “which is to be a federated school”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to federations consisting of all categories of schools in England.

Part 1 provides for the Regulations to come into force on [], revokes the Federation of Schools (Community Schools, Community Special Schools, Voluntary Controlled Schools and Maintained Nursery Schools) (England) Regulations 2003 and contains interpretative provisions.

Part 2 sets out the circumstances in which a federation can be established or a school can join an existing federation. At least two but no more than five schools can federate in accordance with section 24 of the Education Act 2002.

Regulation 5 enables action taken before [] to take effect as complying with prescribed procedure.

Regulations 6 to 11 set out the procedure for schools to federate including circumstances where a federation wishes to join another federation to form a new federation and where a new school wishes to join a federation. Regulation 11 and Schedule 1 enable new schools which propose to be federated schools to have a single temporary governing body.

Regulation 12 provides that on the federation date the governing bodies of the individual schools dissolve and the governing body of the federation is incorporated. All relevant land, property, rights and liabilities are transferred to the governing body of the federation.

Part 3 describes the various types of governor. Regulation 13 and Schedule 2 deal with parent governors and set out the basis on which they are elected or appointed.

Regulation 14 deals with staff governors. This category includes both teaching and non-teaching staff and the head teacher of each federated school or of the federation. Every head teacher, whether he is the head teacher of a federation or the head teacher of a school within the federation is a staff governor by virtue of his position but may resign his governorship (or withdraw his resignation) at any time. Schedule 3 sets out the election process for other staff governors.

Regulation 15 deals with the appointment of LEA governors.

Regulation 16 sets out who is eligible for appointment as a community governor. Schedule 4 sets out provisions as to the appointment of community governors in special schools.

Regulation 17 deals with the appointment of foundation governors, including ex officio foundation governors and substitute governors. Regulation 18 and Schedule 5 make provision for the nomination and appointment of partnership governors and regulation 19 and Schedule 6 make provision for the nomination and appointment of sponsor governors. The appointment of sponsor governors is optional.

Regulation 20 provides for the appointment of persons who are not governors (known as associate members) to committees of the governing body of a federation.

Part 4 sets out the general principles by which the size and composition of governing bodies of federations are to be determined. Regulations 22 to 27 set out the specific requirements for the constitution of the governing bodies of federations, dependent upon the type of schools which make up a federation.

Part 5 applies provisions within other sets of Regulations to the governing bodies of federations, and to governors, where certain modifications are required as set out in Schedules 7 to 9. Provisions relating to the exercise of the power to nominate and appoint a governor and relating to qualifications and terms of office apply, together with provisions dealing with the procedure for making, reviewing and varying a federation's instrument of government and the contents of that instrument of government. The instrument of government of a federation must conform to the School Governance (Constitution) (England) Regulations 2003.

Part 6 deals with information and funding matters. Regulation 32 provides for the governing bodies of each school which will be part of a federation to provide specified information to assist the governing body of the federation.

Regulation 33 applies Chapter 4 of Part 2 of the School Standards and Framework Act 1998 to federations subject to regulation 34, which modifies section 50 of the 1998 Act as it applies to federated schools and the governing bodies of federations. The modified section 50 applies until a temporary governing body is established when a school proposes to leave a federation or when a federation is dissolved.

Part 7 sets out the procedure required for a federated school to leave a federation. Regulation 36 provides for the matter to be referred to and determined by the Secretary of State.

Regulation 37 provides that where a school is to leave a federation, the local education authority must establish a temporary governing body and issue an instrument of government in respect of that school and review the instrument of government of the federation. Under regulation 38, the temporary governing body of the school leaving the federation may spend its budget share made available by the local education authority.

Regulation 39 provides for the incorporation of the governing body of the school leaving the federation on the de-federation date and regulation 40 deals with the transfer of land, property, rights and liabilities to the governing body of the school leaving the federation.

Part 8 sets out the procedure for the dissolution of a federation. The local education authority must establish a temporary governing body for each school within the federation and issue an instrument of government in relation to each school.

Regulation 43 enables the temporary governing body of each school to spend the budget share made available to it by the local education authority.

Regulation 44 provides for the incorporation (on the date of dissolution) of the governing bodies of each school previously within the dissolved federation and regulation 45 deals with the transfer of land, property, rights and liabilities to the governing body of each of those schools.