
STATUTORY INSTRUMENTS

2007 No. 958

The School Governance (New Schools) (England) Regulations 2007

PART 7

Transition from a Temporary Governing Body to a Governing Body

Making of instrument of government and constitution of the governing body

52.—(1) The local education authority must secure that an instrument of government has been made for each new school in accordance with regulations 29 to 31 of the Constitution Regulations before the school opening date.

(2) The instrument of government is to take effect from the date of making for the purpose of constituting the governing body but is not to affect the constitution or name of the temporary governing body conducting the new school.

(3) The local education authority must secure that appointments or elections of governors required by the instrument of government for a new school take place in accordance with that instrument before the incorporation date and take effect from that date.

(4) For all other purposes, the instrument of government is to take effect from the date stated in it (“the incorporation date”).

(5) On the incorporation date the governing body of a new school is to be constituted under the instrument of government.

(6) The temporary governing body must exercise their functions under SSFA 1998, EA 2002 and under these Regulations in a manner calculated to enable the local education authority to fulfil its duties under this regulation.

New governors

53.—(1) In the case of the appointment of any governor referred to in regulation 52(3), the local education authority must give written notice to the person who is to make the appointment under the instrument of government, unless that person has already notified them of an appointment to fill the vacancy.

(2) Where any person makes an appointment referred to in paragraph (1), he must give written notice of the appointment to the local education authority and to the clerk to the temporary governing body, specifying the name and usual place of residence of the person appointed.

Appointment or election of new governors

54.—(1) The following paragraphs apply in relation to the appointment or election of governors required to constitute the governing body pursuant to regulation 52(3).

(2) Any parent governor must be either—

- (a) elected (after the school opening date) by the parents of registered pupils at the new school and must himself be such a parent at the time when he is elected; or
 - (b) appointed (after the school opening date) by the temporary governing body in accordance with Schedule 1 to the Constitution Regulations.
- (3) After the school opening date—
- (a) any staff governor is to be elected in accordance with regulation 5 of and Schedule 2 to the Constitution Regulations; and
 - (b) any partnership governor is to be a person nominated and appointed in accordance with regulation 9 of and Schedule 4 to the Constitution Regulations.

Property, rights and liabilities

55. On the incorporation date—

- (a) all land and other property which, immediately before the incorporation date, was vested in the temporary governing body, and
- (b) all rights and liabilities of the temporary governing body subsisting immediately before that date,

by virtue of this regulation, transfer to and vest in the governing body constituted under the instrument of government.

Rights and liabilities under a contract of employment

56. Without prejudice to the generality of regulation 55, where that regulation effects a transfer of rights and liabilities under a contract of employment—

- (a) the contract is to have effect from the incorporation date as if originally made between the employee and the governing body, and
- (b) without prejudice to sub-paragraph (a), anything done before that date by or in relation to the temporary governing body in respect of that contract or the employee is to be deemed from that date to have been done by or in relation to the governing body,

but no right of the employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions arises by reason only of the change of employer effected by that regulation.