

SCHEDULE 1

Regulation 9

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 15 and no more than 25 temporary governors, is to be determined by the local authority.
2. In determining the size of the membership of the temporary governing body, the local authority must not include—
 - (a) any temporary sponsor governors;
 - (b) any temporary foundation governors appointed in accordance with paragraph 8(2); or
 - (c) any temporary associate pupil governors.
3. In determining the size of the membership of the temporary governing body, the local authority must include any temporary additional community governors appointed in accordance with paragraph 12.
4. Where application of paragraphs 5 to 10 produces a number other than a whole number, the local authority is to specify either the whole number next above or the whole number next below (at their choice) provided that the total number of temporary governors is within the limits set in paragraph 1.

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

5. A temporary governing body constituted for two or more proposed community schools, proposed community special schools or proposed maintained nursery schools only, is to be composed as follows—
 - (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;
 - (c) at least one but no more than two temporary staff governors;
 - (d) at least two temporary local authority governors;
 - (e) subject to sub-paragraph (f) at least two temporary community governors;
 - (f) at least one temporary representative governor where the proposed federation contains at least one proposed community special school to take the place of an equal number of the community governors required by sub-paragraph (e); and
 - (g) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

Temporary governing body for new foundation or foundation special schools

6. A temporary governing body constituted for two or more proposed foundation schools or foundation special schools only, is to be composed as follows—
 - (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;

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- (c) at least one but no more than two temporary staff governors;
- (d) at least two temporary local authority governors;
- (e) at least two temporary community governors;
- (f) at least two temporary foundation governors (or temporary partnership governors as appropriate in respect of any school without a foundation); and
- (g) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

Temporary governing body for new voluntary controlled schools

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

- (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;
- (c) at least one but no more than two temporary staff governors;
- (d) at least two temporary local authority governors;
- (e) at least two temporary community governors; and
- (f) at least two temporary foundation governors; and
- (g) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

Temporary governing body for new voluntary aided schools

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

- (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;
- (c) at least one but no more than two temporary staff governors;
- (d) at least two temporary local authority governors;
- (e) such number of temporary foundation governors as out number all the other temporary governors listed in sub-paragraphs (a) to (d) by two; and
- (f) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

(2) In addition, the person who is entitled to appoint temporary foundation governors may appoint such number of temporary foundation governors (up to two or where the federation contains new secondary schools only, up to four) as are required to preserve their majority.

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

9. 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 is to be composed as follows—

- (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;
- (c) at least one but no more than two temporary staff governors;
- (d) at least two temporary local authority governors;
- (e) subject to sub-paragraph (g), at least two temporary community governors;
- (f) at least two temporary foundation governors;
- (g) at least one temporary representative governor where the proposed federation contains at least one proposed community special school to take the place of one of the community governors required by sub-paragraph (e); and
- (h) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

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

10. 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 is to be composed as follows—

- (a) for each proposed school at least one temporary parent governor 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 one but no more than two temporary teacher governors;
- (c) at least one but no more than two temporary staff governors;
- (d) at least two temporary local authority governors;
- (e) subject to sub-paragraph (g), at least two temporary community governors;
- (f) at least two temporary foundation governors (or temporary partnership governors as appropriate in respect of any school without a foundation);
- (g) at least one temporary representative governor where the proposed federation contains at least one proposed community special school to take the place of one of the community governors required by sub-paragraph (e); and
- (h) the head teacher or the head teacher designate of each proposed school, unless he or she resigns his or her governorship.

Temporary sponsor and associate pupil governors

11. A temporary governing body constituted in accordance with paragraphs 5 to 10 may, in addition—

- (a) appoint up to two temporary sponsor governors; and
- (b) appoint up to two temporary associate pupil governors.

Temporary Additional Community Governors

12.—(1) This paragraph applies to a temporary governing body constituted in accordance with paragraphs 5 to 10 for one or more of the following—

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- (a) any proposed community, voluntary or foundation school which is to be a primary school; and
- (b) any proposed maintained nursery school;

which serves an area for which there are one or more community councils.

(2) The instrument of government of a proposed school must provide for the temporary governing body to include (in addition to the governors required by virtue of paragraphs 5 to 11, as the case may be) one temporary community governor nominated by the community council.

(3) If a proposed school serves an area for which there are two or more community councils, the temporary governing body may seek nominations from one or more of those councils.

SCHEDULE 2

Regulation 11

Election and appointment of parent governors

1. Subject to paragraph 2(2), in this Schedule “appropriate body” (“*corff priodol*”) means—

- (a) the local 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 a local authority is the appropriate body in relation to a school, that local 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 local authority is the appropriate body in relation to a school within paragraph 1(b) if the governing body of the federation and the local authority so agree.

3. Subject to paragraphs 4 to 8 the appropriate body must make all necessary arrangements for the election of parent governors.

4. The appropriate body must determine for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school.

5. The duty conferred by paragraph 3—

- (a) does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected, but
- (b) does include the power to make provision as to qualifying dates.

6. Any election which is contested must be held by secret ballot.

7.—(1) The arrangements made under paragraph 3 must 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” (“*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.

8. Where a vacancy for a parent governor arises, the appropriate body must 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 or she is entitled to stand as a candidate and vote in the election; and
 - (c) given the opportunity to do so.
- 9.** The number of parent governors required must 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 appropriate body, 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 or foundation special school established in a hospital, it would, in the opinion of the appropriate body, be impractical for there to be an election of parent governors.
- 10.—(1)** Except where paragraph 11 applies, in appointing a parent governor to represent a federated school, the governing body of a federation must appoint—
- (a) a parent of a registered pupil at the school;
 - (b) a parent of a registered pupil at another school within the federation; or
 - (c) a parent of a child of compulsory school age, or in the case of a maintained nursery school, of or under compulsory school age.
- (2) The governing body must only appoint a person referred to in sub-paragraph (1)(b) or (c) if it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.
- 11.—(1)** Where the school is a community special school or a foundation special school, in appointing a parent governor the governing body of a federation must appoint—
- (a) a parent of a registered pupil at the school;
 - (b) a parent of a child of compulsory school age with special educational needs;
 - (c) a parent of a person of any age with special educational needs; or
 - (d) a parent of a child of compulsory school age.
- (2) The governing body of a federation must 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

Regulations 12 and 13

Election of teacher and staff governors

- 1.** Subject to paragraphs 2 to 4, the governing body of the federation must make all necessary arrangements for the election of teacher and staff governors.
- 2.** The governing body of the federation is to determine for the purposes of an election of teacher and staff governors whether a person is a school teacher or otherwise employed to work at the school.
- 3.** The duty conferred by paragraph 1—
 - (a) 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; but
 - (b) includes the power to make provision as to qualifying dates.

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4. Any election which is contested must be held by secret ballot.

SCHEDULE 4

Regulation 17

Appointment of 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 from such other persons in the community served by the federation as they consider appropriate; and
 - (b) may seek nominations from parents of registered pupils at other schools in 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.—(1) In the case of a foundation special school without a foundation, the governing body of the federation must appoint at least one person with experience of education for children with special education needs as a partnership governor, unless no eligible nominee has such experience.
 - (2) In seeking nominations for partnership governors for foundation special schools, the governing body of a federation must take steps to secure that persons making nominations are aware of the requirement in paragraph (1).
4. Subject to paragraph 5(2), no governor may nominate a person for appointment as a partnership governor.
- 5.—(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.
- 6.—(1) Where the governing body of a federation makes an appointment under paragraph 5(2), having rejected any person nominated under paragraph 1, it must give written reasons for its decision to the local authority and to the person rejected.
 - (2) Where the federation includes schools maintained by more than one local authority, the reference in sub-paragraph (1) to the local authority is to be taken as a reference to each local authority.
7. 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 5

Regulation 18

Appointment of sponsor governors

1. In this Schedule, “sponsor” (“*noddwr*”) 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 federated school.
2. Where the federation has one or more sponsors, the governing body of the federation may determine that the instrument of government is to provide for the governing body of the federation to appoint such number of sponsor governors, not exceeding two, nominated in accordance with paragraph 3.
3. The governing body of a federation must seek nominations for such appointments from the federation's or a federated school's sponsor or (as the case may be) from one or more of the federation's or federated school's sponsors.

SCHEDULE 6

Regulation 19

Appointment of representative governors

1.—(1) In relation to a community special school established in a hospital, the local authority must designate as the appropriate body—

- (a) one local health board or more than one board to act jointly; or
- (b) the National Health Service trust;

with which the school is most closely associated and the appropriate body must appoint a representative governor to take the place of one of the number of community governors appointed in accordance with regulation 22, 26 or 27 (as the case may be).

(2) For the purposes of this Schedule “National Health Service trust” (*“ymddiriedolaeth Gwasanaeth Iechyd Gwladol”*) means a body established by the Welsh Ministers under section 18 of the National Health Service (Wales) Act 2006(1).

2. Where a community special school is not established in a hospital—

- (a) the local authority may designate one voluntary organisation or more than one such organisation to act jointly as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised; and
- (b) where an appropriate voluntary organisation is so designated, it must appoint the representative governor to take the place of one of the number of community governors appointed in accordance with regulation 22, 26 or 27 (as the case may be).

SCHEDULE 7

Regulation 32

Qualifications and disqualifications

General

1. Save in the case of associate pupil governors no person is qualified to be a governor unless he or she is aged 18 or over at the date of his or her election or appointment.

(1) 2006.c.42.

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2. No person may at any time hold the office of more than one governor of the same school.

3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a federation does not disqualify him or her from election or appointment or from continuing as a governor of any other category at that federation.

Mental disorder

4. A person is disqualified from holding or for continuing to hold office as a governor of a federation at any time when he or she is liable to be detained under the Mental Health Act 1983⁽²⁾ or under any re-enactment or statutory modification of that Act in force from time to time.

Failure to attend meetings

5.—(1) This paragraph applies to any governor who is not a governor by virtue of his or her office.

(2) A governor, who, without the consent of the governing body, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of the first such meeting he or she failed to attend, is, on the expiry of that period, disqualified from continuing to hold office as a governor of that federation.

(3) Where a governor has sent an apology to the clerk to the governing body before a meeting which he or she does not propose to attend, the minutes of the meeting must record the governing body's consent or otherwise to the absence and a copy of the minutes must be sent to the governor concerned at his or her normal place of residence.

(4) A governor who has been disqualified as a governor of a federation under sub-paragraph (2) is not qualified for election, nomination or appointment as a governor of any category at that federation during the twelve months immediately following his or her disqualification under sub-paragraph (2).

Bankruptcy

6. A person is disqualified from holding or continuing to hold office as a governor of a federation if—

- (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation to him or her; or
- (b) he or she has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

Disqualification of company directors

7. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when he or she is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986⁽³⁾;
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989⁽⁴⁾;
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁵⁾; or

(2) 1983 c. 20.

(3) 1986 c. 46.

(4) No. 2404 (N.I.18).

(5) No. 3150 (N.I. 4).

- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(6) (failure to pay under county court administration order).

Disqualification of charity trustees

8. A person is disqualified from holding or from continuing to hold office as a governor of a federation if—

- (a) he or she has been removed from the office of trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he or she was responsible or to which he or she was privy, or to which he or she contributed or which he or she facilitated by his or her conduct; or
- (b) he or she has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(7) (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body.

Persons whose employment is prohibited or restricted

9. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when he or she is—

- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999(8);
- (b) subject to a direction of the Welsh Ministers or the Secretary of State under section 142 of the 2002 Act;
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(9);
- (d) disqualified from registration under Part XA of the Children Act 1989(10) for childminding or providing day care;
- (e) disqualified from registration under Part 3 of the Childcare Act 2006(11);
- (f) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006(12));
- (g) subject to a direction by the appropriate authority under section 167A of the 2002 Act(13); or
- (h) by virtue of an order made under section 470 or section 471 of the 1996 Act, disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school.

Criminal convictions

10.—(1) Subject to sub-paragraph (5), a person is disqualified from holding, or continuing to hold, office as a governor of a federation where any of sub-paragraphs (2) to (4) or (6) apply to him or her.

(6) 1986 c. 45.

(7) 2005 asp 10.

(8) 1999 c. 14; as amended by the Care Standards Act 2000 (c. 14).

(9) 2000 c. 43.

(10) 1989 c. 41.

(11) 2006 c. 21.

(12) 2006 c. 47.

(13) Section 167A was inserted by section 169 of the Education and Inspections Act 2006 (c. 40), but it is not yet in force.

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- (2) This sub-paragraph applies to a person if—
- (a) within the period of five years ending with the date immediately preceding the date on which his or her appointment or election as governor would otherwise have taken effect or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office; or
 - (b) since his or her appointment or election as governor or, as the case may be, since he or she became a governor by virtue of his or her office;

he or she has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him or her a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(3) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which his or her appointment or election as governor would otherwise have taken effect or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office, he or she has been convicted as aforesaid of any offence and has had passed on him or her a sentence of imprisonment for a period of not less than two and a half years.

(4) This sub-paragraph applies to a person if he or she has at any time been convicted as aforesaid of any offence and he or she has had passed on him or her a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4), any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence in that part of the United Kingdom under the law in force at the time the facts given rise to the offence had taken place, must be disregarded.

- (6) This sub-paragraph applies to a person if—
- (a) within the period of five years ending with the date immediately preceding the date on which his or her appointment or election as governor would otherwise have taken effect or, as the case may be, on which he or she would otherwise have become a governor by virtue of his or her office; or
 - (b) since his or her appointment or election as governor or, as the case may be, since he or she became a governor by virtue of his or her office;

he or she has been convicted under section 547 of the 1996 Act⁽¹⁴⁾ (nuisance or disturbance on school premises) or under section 85A of the Further and Higher Education Act 1992⁽¹⁵⁾ (nuisance and disturbance on educational premises) of an offence and has been sentenced to a fine.

Governors of more than two schools

11.—(1) Save in the case of associate pupil governors no person may at any time hold office as governor in more than two federations.

(2) For the purposes of sub-paragraph (1) no account is to be taken of ex officio governorships, governorships to which the New Maintained Schools Regulations apply or any appointment under sections 16, 16A, 18 or 18A of the 1998 Act.

⁽¹⁴⁾ As amended by paragraph 163 of Schedule 30 to the 1998 Act and by section 206 of, and Schedule 20, to the 2002 Act and by section 6 of, and Schedule 1 to, the Education and Inspections Act 2006 (c. 40).

⁽¹⁵⁾ 1992 c. 13; inserted by section 206 of and Schedule 20 to the 2002 Act.

Refusal to make an application for a criminal records certificate

12. A person is disqualified from holding or continuing to hold office as a governor at any time when he or she refuses a request by the governing body to make an application under section 113B of the Police Act 1997(16) for a criminal records certificate.

Notification to clerk

13. Where—

- (a) by virtue of any paragraphs 6 to 11 a person is disqualified from holding, or for continuing to hold, office as a governor of a federation; and
- (b) he or she is, or is proposed to become, a governor;

he or she must give notice of that fact to the clerk to the governing body.

SCHEDULE 8

Regulation 44

Modification of the Staffing Regulations

- 1.** In regulation 3, after paragraph (7) insert the following paragraph—

“(8) 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; and
 - (b) where reference is made to the authority and a federation includes schools maintained by more than one authority, the reference is to be taken as a reference to each.”.
- 2.** In regulation 4, for paragraph (1) substitute—

“(1) A governing body and an authority must exercise their respective functions under these Regulations and any other enactment with a view to ensuring that there is employed, or engaged otherwise than under contracts of employment, a staff suitable and sufficient in numbers for the purpose of securing the provision of education appropriate to the ages, abilities, aptitudes and needs of the pupils having regard to any arrangements for the utilisation of the services of staff employed or engaged otherwise than at the federation or federated school in question.”.
- 3.** In regulation 6(1)(a), after “sending a copy to the” insert “relevant”.
- 4.** In regulations 7(1), (2)(a) to (c) and (4)(c), 24A(2) and (5), 27(1) and (3), 29(1) and (4), and 32(1) for “school” in each place it occurs substitute “federation or federated school”.
- 5.** In regulation 7(3) for “school’s staff” substitute “federation or federated school staff”.
- 6.** In regulation 7(4)(a) for “school” substitute “federation”.
- 7.** In regulation 7(4)(b) and (d) for “school” substitute “federated school”.
- 8.** In regulations 9 and 20 after “This Part applies to” insert “federated schools which are”.

(16) 1997 (c. 50); inserted by section 163 of the Serious Organised Crime and Police Act 2005 (c. 15). Subsections (2A) and (12) were inserted, and subsection (6) was amended, by the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I.2009/203). Paragraph (a) of subsection (10) was substituted for paragraph (a) and (b) as originally enacted by paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c. 52).

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9. In regulations 9A(3), 9B and 20A(3), for “school” in each place it occurs substitute “federation or a federated school”.

10. In regulation 10(11) for “work at the school” substitute “work at the federation or a federated school”.

11. In regulations 12(1), 12(4), 12(9)b, 12(15), 15A(1), (2) and (5), 17(1) to (3), (8) and (11), 26(1), (5), (10)(b) and (15) for “school” in each place it occurs substitute “federation or federated school”.

12. In regulations 15A(4), 18(3) and 24A(4) for “work at the school” in each place it occurs substitute “work at the federation or a federated school”.

13. In regulation 16 for paragraph (1) substitute—

“(1) Subject to regulation 18—

- (a) both the governing body and the head teacher of the federation 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 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 or her suspension is required.”.

14. In regulation 17(4) for “school's” substitute “federated school's”.

15. In regulation 18(1) for “work at a school” substitute “work at a federation or a federated school”.

16. In regulation 18(3) for “school” in the first place it occurs substitute “federated school”.

17. In regulations 18A and 26A for “school” substitute “federation or federated school”.

18. In regulation 19(1) after “applies to a” insert “federated”.

19. In regulation 19(2)(a) after “teachers at the” insert “federated”.

20. In regulation 19(4) after “apply to a” insert “federated”.

21. In regulation 23(1) after “foundation school” insert “which is a federated school and”.

22. In regulation 23(5) for “school” substitute “federated school”.

23. In regulation 24, after paragraph (8) insert—

“(8A) The foundation governors appointed in respect of a particular federated voluntary aided school must agree any recommendation at paragraph (8)(c) in respect of the head teacher of that school.”.

24. In regulation 24A for paragraph (1) substitute—

“(1) No person supplied by an employment business to a federation or federated school may begin work as a teacher or member of support staff at the federation or federated school unless the governing body have received—

- (a) written notification from the employment business in relation to that person—
 - (i) that the checks referred to in regulation 15A(6) have been made;
 - (ii) that an application for an enhanced criminal record certificate accompanied by a children’s suitability statement has been made, or such a certificate has

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- been obtained in response to an application by that or another employment business; and
- (iii) whether, if the employment business has obtained such a certificate before the person is due to begin work at the federation or federated school, it disclosed any matter or information, or any information was supplied to the employment business in accordance with section 113B(6) of the Police Act 1997; and
- (b) where the employment business has obtained an enhanced criminal record certificate before the person is due to begin work at the federation or federated school, and it discloses any matter or information, or any information was provided to the employment business in accordance with section 113B(6) of the Police Act 1997, a copy of the certificate.”.
- 25.** In regulation 28 for paragraph (1) substitute—
- “(1) Both the governing body and the head teacher—
- (a) of the federation have the power to suspend any person employed, or engaged otherwise than under a contract of employment, to work at the federation; and
- (b) of a federated school 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 or her suspension is required.”.
- 26.** In regulation 32, for paragraph (2) substitute—
- “(2) Regulations 16 and 17 apply in relation to the suspension, dismissal or withdrawal from the federation or federated school of any member of the staff who is employed by the authority as they apply in relation to the suspension, dismissal or withdrawal from a federation or federated school to which Part 2 of these Regulations applies of a person who is employed to work at the federation or federated school.”.
- 27.** In regulation 32(3) for “the school” substitute “a federated school” and for “as if it were a school” substitute “as if it were a federated school”.
- 28.** In regulations 33(1) and 34(1) after “voluntary aided school” insert “which is a federated school”.
- 29.** In regulation 35, after “school” insert “which is to be a federated school”.

SCHEDULE 9

Regulation 45

Modification of the School Councils Regulations

- 1.** In regulation 2 in the definition of “school” for “maintained school” substitute “maintained school which is a federated school” and for “maintained nursery school” substitute “maintained nursery school which is a federated school”.
- 2.** In regulation 2 in the definition of “infant school” for “maintained school” substitute “maintained school which is a federated school”.
- 3.** In regulation 2 in the definition of “special educational needs resource base” after “school” insert “which is a federated school”.
- 4.** In regulation 3 for paragraph (1) substitute—

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

5. In regulation 3(2) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.

6. In regulation 3(3) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.

7. In regulation 3(4) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.

8. In regulation 4(2) for “head teacher” substitute “head teacher of the federation or a federated school”.

9. In regulation 4(4) for “head teacher of any school” substitute “head teacher of the federation or a federated school”.

10. In regulation 5 after “foundation special schools” insert “which are federated schools”.

11. For regulation 7 substitute—

“(1) The head teacher of the federation or of a federated school must ensure that the school council has the opportunity to nominate up to two pupils from years 11 to 13 (inclusive) from its membership to be associate pupil governors on the governing body.

(2) The governing body of a federation must accept any pupil nominated in accordance with paragraph (1), and appoint him or her as an associate pupil governor on the governing body of the federation, provided the pupil is not disqualified from membership in accordance with Schedule 10 to the Federation of Maintained Schools (Wales) Regulations 2009.”.

SCHEDULE 10

Regulation 72

Restrictions on persons taking part in proceedings of the governing body or its committees

Pecuniary interests

1.—(1) For the purposes of regulation 72(2), a pecuniary interest in a contract, proposed contract or other matter includes a case where—

- (a) a relevant person was nominated or appointed to office by a person with whom the contract was made or is proposed to be made; or
- (b) a relevant person is a business partner of a person with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including his or her spouse, civil partner within the meaning of the Civil Partnership Act 2004⁽¹⁷⁾ or someone living with that person as if he or she were that person’s spouse or civil partner) to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 72(2) a relevant person is not to be treated as having a pecuniary interest in any matter—

(17) 2004 c. 33.

- (a) provided his or her interest in the matter is no greater than the interest of the generality of those paid to work at the federation or a federated school;
- (b) by reason only of the fact that he or she was nominated or appointed to office by, is a member of, or is employed by, any public body; or
- (c) by reason only of the fact that he or she is a member of a corporation or other body if he or she has no financial interest in any securities of that corporation or other body.

(3) A governor is not, by reason of his or her pecuniary interest in the matter, prevented from considering and voting upon proposals for the governing body to take out insurance protecting members against liabilities incurred by them arising out of their office and the governing body shall not, by reason of the pecuniary interest of its members, be prevented from obtaining such insurance and paying the premiums.

(4) A governor is not prevented from considering or voting upon any proposal regarding allowances to be paid in accordance with the Governor Allowances (Wales) Regulations 2005⁽¹⁸⁾ by reason that he or she has an interest in the payment of such allowances to members of the governing body generally but a member of a governing body or any committee thereof must withdraw from a meeting during a consideration or discussion of, and must not vote on, whether he or she should receive a particular allowance, the amount of any payment or any question about an allowance that has been paid to him or her.

Office of governor, chair, vice-chair or clerk

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the federation or federated school at which a subject of consideration is—

- (a) his or her own appointment, reappointment, suspension or removal as a member of the governing body or a committee;
- (b) his or her own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body or clerk to or chair of a committee;
- (c) if he or she is a sponsor governor, any determination under paragraph 2 of Schedule 5 as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies, the relevant person's interests are to be treated for the purposes of regulation 72(2) as being in conflict with the governing body's interests.

Pay or appraisal of persons working at the school

3.—(1) This sub-paragraph applies where a relevant person who is paid to work at a federation or federated school other than as head teacher is present at a meeting of the federation or federated school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the federation or a federated school.

(2) This sub-paragraph applies where a head teacher of a federation or a federated school is present at a meeting of the federation or a federated school at which a subject of consideration is his or her own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests are to be treated for the purpose of regulation 72(2) as being in conflict with the governing body's interests.

Appointment of staff

4. Where a relevant person who is employed to work at a federation or a federated school is present at a meeting of the federation or a federated school at which a subject of consideration is

⁽¹⁸⁾ S.I. 2005/2915 (W.212).

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the appointment of a successor to that person, he or she must withdraw from the meeting during the consideration or discussion of the matter in question and must not vote on any question with respect to that matter.

Persons who are members of more than one governing body

5. The fact that a person is a governor or a member of a committee of the governing body at more than one federation is not under any circumstances to be considered a conflict of interest for the purpose of these Regulations.