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WELSH STATUTORY INSTRUMENTS

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**2013 No. 2127 (W. 208)**

**EDUCATION, WALES**

**The Government of Maintained Schools (Clerk to a Governing Body) (Wales) Regulations 2013**

<i>Made</i>	- - - -	<i>23 August 2013</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>28 August 2013</i>
<i>Coming into force</i>	- -	<i>20 September 2013</i>

The Welsh Ministers in exercise of the powers in paragraph 19(2) and (3) of Schedule 1A to the School Standards and Framework Act 1998<sup>(1)</sup>, sections 19(2), 23 and 210 of the Education Act 2002<sup>(3)</sup> and sections 23, 24 and 32 of the Education (Wales) Measure 2011<sup>(4)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Government of Maintained Schools (Clerk to a Governing Body) (Wales) Regulations 2013 and they come into force on 20 September 2013.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Government of Maintained Schools (Wales) Regulations 2005<sup>(5)</sup>;

“the 2010 Regulations” (“*Rheoliadau 2010*”) means the Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010<sup>(6)</sup>;

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- (1) [1998 c.31](#). Section 59(2) of the 2002 Act inserted Schedule 6 of that Act into the 1998 Act as Schedule 1A. The functions of the Secretary of State under Schedule 1A are to be treated as having transferred to the National Assembly of Wales in accordance with section 211 of the 2002 Act and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([c.32](#)).
- (2) As amended by section 38 of the Education Act 2011 ([c.21](#)).
- (3) [2002 c.32](#). Section 210(7) was amended by section 21(1), (3)(c)(i) and (ii) of the Learner Travel (Wales) Measure 2008 ([nawm 2](#)). The functions of the National Assembly for Wales under these sections were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([c.32](#)).
- (4) [2011 nawm 7](#).
- (5) [S.I. 2005/2914 \(W.211\)](#) as amended by [S.I. 2005/3200 \(W.236\)](#), [S.I. 2006/873 \(W.81\)](#), [S.I. 2007/944 \(W.80\)](#), [S.I. 2009/2544 \(W.206\)](#), [S.I. 2010/638 \(W.64\)](#), [S.I. 2010/1142 \(W.101\)](#), [S.I. 2010/2582 \(W.216\)](#) as modified by [S.I. 2012/1643 \(W.212\)](#).
- (6) [S.I. 2010/638 \(W.64\)](#).

“the 2012 Regulations” (“*Rheoliadau 2012*”) means the School Governance (Transition from an Interim Executive Board) (Wales) Regulations 2012 (7)

“governor support officer” (“*swyddog cymorth i lywodraethwyr*”) means a person employed by a local authority for the sole or principal purpose of providing support and advice to the local authority, head teachers and governors; and

“the training” (“*yr hyfforddiant*”) means the training set out in the document published by the Welsh Ministers in September 2013 called “Content of training for clerks of governing bodies in Wales”(8) which sets out for the purpose of section 24 of the Education (Wales) Measure 2011 the prescribed training and standards.

(2) Any reference in these Regulations to a governing body is a reference to the governing body of a maintained school in the local authority’s area.

(3) For the purpose of these Regulations the question of whether or not a clerk has satisfactorily completed the training is to be determined by the person who provided the training to that clerk.

(4) For the purposes of the 2012 Regulations, references in these Regulations to a “governing body”, “governor” and “governors” are to be read as references to “shadow governing body”, “shadow governor” and “shadow governors”.

### **Provision of a clerk to a governing body**

3.—(1) For the purpose of this regulation a clerk to a governing body is—

- (a) a person appointed by virtue of regulation 42 to perform the functions set out in regulation 43 of the 2005 Regulations; or
- (b) a person appointed by virtue of regulation 50 to perform the functions set out in regulation 51 of the 2010 Regulations.

(2) If a governing body makes a request to the local authority to provide a person for appointment as a clerk, that local authority must provide a suitable person for appointment within 16 weeks of the request being received by the local authority.

(3) A suitable person is—

- (a) a person who has satisfactorily completed the training; or
- (b) a governor support officer.

(4) The local authority may charge a fee for providing a person to act as a clerk to the governing body.

(5) Where a local authority exercise the power to charge a fee under paragraph (4) the fee charged must not exceed the cost of providing the clerk.

### **Training of clerk to a governing body**

4.—(1) For the purpose of this regulation a clerk to a governing body is—

- (a) a person appointed by virtue of regulation 42 to perform the functions set out in regulation 43 of the 2005 Regulations;
- (b) a person appointed by virtue of regulation 58(1) to perform the functions set out in regulation 58(5) in respect of a committee established in accordance with regulations 55 to 57 of the 2005 Regulations;
- (c) a person appointed by virtue of regulation 50 to perform the functions set out in regulation 51 of the 2010 Regulations;

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(7) [S.I. 2012/1643 \(W.212\)](#).

(8) ISBN No 978-0-7504-9644-5

- (d) a person appointed by virtue of regulation 67(1) to perform the functions set out in regulation 67(5) in respect of a committee established in accordance with regulations 64 to 66 of the 2010 Regulations; or
  - (e) a person appointed by virtue of regulation 10 of the 2012 Regulations..
- (2) Subject to paragraph (3) a clerk must satisfactorily complete the training within whichever is the later of—
- (a) 1 year of appointment as clerk; or
  - (b) 1 year of the coming into force of these Regulations.
- (3) Nothing in this regulation applies to—
- (a) a governor support officer;
  - (b) a person who has satisfactorily completed the training;
  - (c) a governor appointed as a clerk in accordance with regulation 42 of the 2005 Regulations, regulation 50 of the 2010 Regulations or regulation 10(3) of the 2012 Regulations.

#### **Removal of clerk to a governing body from office**

**5.—**(1) If the clerk to a governing body does not satisfactorily complete the training in accordance with these Regulations then, the governing body must remove the clerk from office.

(2) A person removed from office in accordance with paragraph (1) may not be appointed as a clerk to a governing body until that person has satisfactorily completed the training.

23 August 2013

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out within how many weeks a local authority must provide the governing body of a maintained school with a suitable clerk. They also set out the training requirements for the clerk to a governing body at maintained schools in Wales. The required content of the training is set out in a document published by the Welsh Ministers.

Regulation 1 provides that the Regulations will come into force on 20 September 2013. Regulation 2 contains the interpretation provisions.

Regulation 3 requires the local authority that maintains the school to provide the governing body with a suitable person to appoint as a clerk. A suitable person is either a governor support officer or someone who has completed the clerk training. The local authority must provide a clerk within 16 weeks of being requested by the governing body to do so and may charge a fee to cover the cost of providing the clerk.

Regulation 4 makes provision about the training of a clerk. It sets out that the training must be satisfactorily completed within 1 year of appointment as a clerk, or within 1 year of the coming into force of the Regulations.

Regulation 5 requires that if the clerk has not completed the training in accordance with the Regulations, the governing body must remove the clerk from office. A clerk removed from office may only be re-appointed when the training has been completed.