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WELSH STATUTORY INSTRUMENTS

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**2014 No. 1132**

**The Federation of Maintained  
Schools (Wales) Regulations 2014**

**PART 12**

**FEDERATED SCHOOLS LEAVING FEDERATIONS**

**Procedure for a school to leave a non local authority federation**

**79.**—(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 where the relevant school does not form part of a local authority federation.

(2) A request may not be made if the relevant school is subject to an intervention by a local authority or the Welsh Ministers under Chapter 1 of Part 2 of the 2013 Act unless the local authority or the Welsh Ministers (as the case may be) agree to the request being made.

(3) 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 local authority;
- (e) the trustees of the relevant school; or
- (f) a body entitled to appoint foundation governors to the governing body of the federation.

(4) The governing body of the federation must give notice of the request to—

- (a) all relevant local authorities;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) 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 in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
- (d) a body entitled to appoint foundation governors to the governing body of the federation;
- (e) the trustees of a trust of any federated school of the federation;
- (f) all staff paid to work at the relevant school;
- (g) every person known by it to be a parent of a registered pupil at the relevant school;
- (h) every trade union known by it to have members paid to work at any of the schools; and
- (i) such other persons as the governing body of the federation considers appropriate.

(5) Notice under paragraph (4) must be given within the period of five clear working days beginning with the date on which the request was received.

(6) A request under paragraph (1) is to 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.

(7) Not less than fourteen clear working days after the governing body of a federation has given notice of the request in accordance with paragraph (4), the governing body must consider the request and all responses received from the persons to whom notification of the request was sent and must decide whether—

- (a) subject to paragraph (10), the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”) (“*y dyddiad dadffedereiddio*”);
- (b) the federation should be dissolved, and if so, on what date; or
- (c) the relevant school should not leave the federation.

(8) Such a decision does 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 57(4).

(9) The governing body of a federation must give notice in writing of its decision under paragraph (7) within five clear working days to those persons referred to in paragraph (4).

(10) The de-federation date specified by the governing body must be not less than 125 days after the day on which notice of the governing body decision under paragraph (9) was given.

### **Procedure for a school to leave a local authority federation**

**80.**—(1) This regulation applies to a request made to the maintaining local authority for a federated school (“the relevant school”) to leave the local authority federation.

(2) A request may not be made if the relevant school is subject to an intervention by a local authority or the Welsh Ministers in Chapter 1 of Part 2 of the 2013 Act unless the local authority or the Welsh Ministers (as the case may be) agree to the request being made.

(3) 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 local authority;
- (e) the trustees of the relevant school; or
- (f) a body entitled to appoint foundation governors to the governing body of the federation.

(4) The maintaining local authority of the relevant school must give notice of the request to—

- (a) all relevant local authorities;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) 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 in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
- (d) a body entitled to appoint foundation governors to the governing body of the federation;
- (e) the trustees of a trust of any federated school of the federation;
- (f) all staff paid to work at the relevant school;
- (g) every person known by them to be a parent of a registered pupil at the relevant school;
- (h) every trade union known by them to have members paid to work at any of the schools; and
- (i) such other persons as the local authority consider appropriate.

(5) Notice under paragraph (4) must be given within the period of five clear working days beginning with the date on which the request was received.

(6) A request under paragraph (1) is to be taken to have been received by the local authority if given or sent to the chief education officer<sup>(1)</sup>.

(7) Not less than fourteen clear working days after the local authority has given notice of the request in accordance with paragraph (4), the local authority must consider the request and all responses received from the persons to whom notification of the request was sent and must decide whether—

- (a) subject to paragraph (9), the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”) (“*y dyddiad dadffedereiddio*”);
- (b) the federation should be dissolved, and if so, on what date; or
- (c) the relevant school should not leave the federation.

(8) The local authority must give notice in writing of its decision under paragraph (7) within five clear working days to those persons referred to in paragraph (4).

(9) The de-federation date specified by the governing body must be not less than 125 days after the day on which notice of the governing body decision under paragraph (8) was given.

#### **Decision to permit federated school to leave a federation**

**81.**—(1) Upon notification that a governing body of a federation has resolved or that the local authority has decided that a federated school should leave a federation paragraphs (2) or (3) are to apply.

(2) Where one of only two federated schools is to leave a federation, the federation is to be dissolved in accordance with Part 13.

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

- (a) the local authority must—
  - (i) establish a temporary governing body in respect of the school leaving the federation in accordance with Parts 3 and 4 of the New Maintained Schools Regulations; and
  - (ii) issue a new instrument of government for that school in accordance with Part 5 of the Government of Maintained Schools Regulations;
- (b) the governing body of the federation must review the instrument of government of the federation in accordance with regulation 45.

(4) For the purpose of paragraph (3)(a)(ii)—

- (a) the reference in regulation 33 of the Government of Maintained Schools Regulations to “governing bodies” is treated as a reference to “temporary governing bodies”; and
- (b) references in regulation 34 of the Government of Maintained Schools Regulations to—
  - (i) “governing body” are treated as references to “temporary governing body”; and
  - (ii) “foundation governors” are treated as references to “temporary foundation governors”.

#### **Availability of amounts representing budget share**

**82.** 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

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(1) Within the meaning of section 532 of the 1996 Act.

available by the local authority under section 50(1) of that Act<sup>(2)</sup> to the governing body of the federation in respect of the school leaving the federation, as it thinks fit for any purposes of that school.

### **Incorporation of governing body of a school leaving a federation**

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

### **Transfer of property**

**84.**—(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 transfers to, and by virtue of these Regulations vests in, the governing body incorporated under regulation 83; 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 transfer to the governing body incorporated under regulation 83.

(2) Section 198 of and Schedule 10 to the Education Reform Act 1988<sup>(3)</sup> (which make provision in relation to transfers of property, rights and liabilities) apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

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(2) As modified by regulation 75 of these Regulations.  
(3) 1988 c.40.