

2007 No. 957

EDUCATION, ENGLAND

**The School Governance (Constitution) (England) Regulations
2007**

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| <i>Made</i> | - - - - | <i>22nd March 2007</i> |
| <i>Laid before Parliament</i> | | <i>4th April 2007</i> |
| <i>Coming into force</i> | - - | <i>25th May 2007</i> |

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The Secretary of State for Education and Skills makes the following Regulations in exercise of the power conferred by sections 19(2) and (3), 20(2) and (3) and 210(7) of the Education Act 2002(a).

Part 1 Introduction

Citation, commencement and application

1.—(1) These Regulations may be cited as the School Governance (Constitution) (England) Regulations 2007 and come into force on 25th May 2007.

(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.

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

Revocations and amendments

2.—(1) The School Governance (Constitution) (England) Regulations 2003(a) are revoked.

(2) The School Governance (Constitution, Federations and New Schools) (England) (Amendment) Regulations 2005(b) are revoked.

(3) In regulation 16(b) of the School Governance (Transition from an Interim Executive Board) (England) Regulations 2004(c) for “School Governance (Constitution) (England) Regulations 2003” substitute “School Governance (Constitution) (England) Regulations 2007”.

(4) In regulation 6(4) of the School Governance (Collaboration) (England) Regulations 2003(d) for “under regulation 20 of, and paragraphs 2 to 11 of Schedule 6 to the School Governance (Constitution) (England) Regulations 2003” substitute “under regulation 21 of, and paragraphs 2 to 11 of Schedule 6 to the School Governance (Constitution) (England) Regulations 2007”.

Interpretation

3.—(1) In these Regulations—

“EA 1996” means the Education Act 1996(e);

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

“EA 2002” means the Education Act 2002;

“parent” includes any individual who has or has had parental responsibility for, or cares or has cared for, a child or young person under the age of 18; and

“qualifying foundation school” means a foundation or a foundation special school which has a foundation established otherwise than under SSFA 1998, and whose instrument of government provides for the majority of governors to be foundation governors appointed by the foundation.

(2) Any reference in these Regulations to—

(a) the governing body or to the governing body of a school is a reference to the governing body of any maintained school to which the provision applies;

(b) a governor is a reference to a member of a governing body of any school to which the provision applies;

(c) the local education authority is a reference to the local education authority that maintains the school; and

(d) a foundation or to a school having a foundation is to be read in accordance with section 21 of SSFA 1998.

Part 2

Categories of Governor

Parent governors

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

(a) S.I. 2003/348, as amended by the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003, the School Governance (Constitution, Procedures and New Schools) (England) (Amendment) Regulations 2004 and the School Governance (Constitution, Federations and New Schools) (England) (Amendment) Regulations 2005.

(b) S.I. 2005/1730.

(c) S.I. 2004/530.

(d) S.I. 2003/1962.

(e) 1996 c.56.

(f) 1998 c.31.

- (a) a person who is elected in accordance with paragraphs 4 to 8 of Schedule 1 as a governor by parents of registered pupils at the school and is himself such a parent at the time when he is elected, or
 - (b) where the school is a maintained nursery school, a person who is elected as a governor by—
 - (i) parents of registered pupils at the school, or
 - (ii) parents of children 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 EA 2002),
 and is himself such a parent at the time when he is elected, or
 - (c) a person appointed as a parent governor in accordance with paragraphs 9 to 11 of Schedule 1.
- (2) A person is disqualified from election or appointment as a parent governor of a school if he is—
- (a) an elected member of the local education authority; or
 - (b) paid to work at the school for more than 500 hours in any consecutive twelve month period.
- (3) 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 the school or to fulfil any of the requirements set out in paragraphs 10 and 11 of Schedule 1 (as the case may be) unless he is otherwise disqualified under these Regulations.

Staff governors

- 5.—(1) In these Regulations “staff governor” means—
- (a) the head teacher, who is a staff governor by virtue of his office unless he resigns the position in accordance with regulation 23(1);
 - (b) a person who is elected in accordance with Schedule 2 as a governor by persons who are paid to work at the 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) must be a school teacher(a) unless no school teacher stands for election.
- (3) Where the school’s instrument of government(b) specifies that there shall be three or more staff governors, at least one staff governor must be a person who is not a school teacher, unless no such person stands for election.
- (4) Upon ceasing to work at the school, a staff governor of a school is to be disqualified from continuing to hold office as such a governor.

LEA governors

- 6.—(1) In these Regulations “LEA governor” means a person who is appointed as a governor by the local education authority.
- (2) A person is disqualified from appointment as a LEA governor of a school if he is eligible to be a staff governor of the school.

Community governors

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

(a) Within the meaning of section 122 of EA 2002.
 (b) Within the meaning of section 20 of EA 2002.

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

(2) In the case of a community special school or a foundation special school the governing body must appoint as one of the community governors a person nominated in accordance with Schedule 3.

- (3) A person is disqualified from appointment as a community governor of a school if he is—
- (a) eligible to be a staff governor of the school; or
 - (b) an elected member of the local education authority.

Foundation governors

8.—(1) In these Regulations—

“foundation governor” means a person who is appointed as a governor otherwise than by the local education authority and who—

- (a) is appointed for the purposes of securing that the character of the school, including where the school has a particular religious character^(a), such religious character, is preserved and developed, and
- (b) where the school has a foundation, is appointed for the purpose of securing that the school is conducted in accordance with the foundation’s governing documents, including, where appropriate, any trust deed relating to the school;

“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;

“substitute governor” 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 24(2).

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

Partnership governors

9.—(1) In these Regulations “partnership governor” means—

- (a) where the school has a religious character, a person who is nominated as a partnership governor and appointed in accordance with Schedule 4 for the purpose of securing that such religious character is preserved and developed, and
- (b) in any other case, a person who is nominated as a partnership governor and appointed as such in accordance with Schedule 4.

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

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

Sponsor governors

10. In these Regulations “sponsor governor” means a person who is nominated as a sponsor governor and is appointed as such by the governing body in accordance with Schedule 5.

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

Associate members

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

(2) An associate member may 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 at the date of his appointment.

(3) Nothing in this regulation prevents 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 is likewise disqualified from holding or continuing to hold office as an associate member of the governing body, save as provided in paragraph 1 of Schedule 6.

Part 3

Composition of Governing Bodies

General Principles

12.—(1) The instrument of government of a school is to specify the size and membership of the governing body, which is to be no fewer than 9 and no more than 20 governors.

(2) In determining the size of their membership, the governing body must not include—

- (a) any sponsor governors, or
- (b) foundation governors appointed in accordance with regulations 16(2)(b) or 18(2)(b).

(3) Subject to regulations 13 to 18, the instrument of government is to specify the numbers of governors from each of the following categories of governor to be elected or appointed—

- (a) parent governor;
- (b) staff governor;
- (c) LEA governor;
- (d) community governor;
- (e) foundation governor;
- (f) partnership governor;
- (g) sponsor governor.

(4) In calculating the number of governors required in each category in accordance with regulations 13 to 18, the number is to be rounded up or down to the nearest whole number and regulations 13 to 18 are to be interpreted subject to this provision.

(5) In calculating the number of staff governors required, the head teacher must be included whether or not he has resigned his governorship.

Community schools, maintained nursery schools and community special schools

13.—(1) The governing body of a community school, a maintained nursery school or a community special school^(a) is to comprise the following:

- (a) one third or more parent governors;
- (b) at least two but no more than one third staff governors;
- (c) one fifth LEA governors; and
- (d) one fifth or more community governors.

(a) Within the meaning of section 20 of and Schedule 2 to the SSFA 1998 and section 39(1) of the EA 2002.

(2) The governing body may in addition appoint up to two sponsor governors, or where the school is a secondary school(a), up to four sponsor governors.

Foundation and foundation special schools which do not have a foundation

14.—(1) The governing body of a foundation school or a foundation special school(b) which, in either case, does not have a foundation, is to comprise the following:

- (a) one third or more parent governors;
- (b) at least two but no more than one third staff governors;
- (c) at least one but no more than one fifth LEA governors;
- (d) one tenth or more community governors; and
- (e) at least two but no more than one quarter partnership governors.

(2) The governing body may in addition appoint up to two sponsor governors or, where the school is a secondary school, up to four sponsor governors.

Foundation and foundation special schools which have a foundation but which are not qualifying foundation schools

15.—(1) The governing body of a foundation school or a foundation special school(c) which, in either case, has a foundation but which is not a qualifying foundation school, is to comprise the following:

- (a) one third or more parent governors;
- (b) at least two but no more than one third staff governors;
- (c) at least one but no more than one fifth LEA governors;
- (d) one tenth or more community governors; and
- (e) at least two but no more than 45 per cent foundation governors.

(2) The governing body may in addition appoint up to two sponsor governors or, where the school is a secondary school, up to four sponsor governors.

Qualifying foundation schools

16.—(1) The governing body of a qualifying foundation school is to comprise the following:

- (a) at least one parent governor;
- (b) at least two but no more than one third staff governors;
- (c) at least one but no more than one fifth LEA governors;
- (d) one tenth or more community governors;
- (e) such number of foundation governors as out number all the other governors listed in subparagraphs (a) to (d) by up to two; and
- (f) such number of foundation governors who are eligible for election or appointment as parent governors that, 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 governing body may appoint up to two sponsor governors, or where the school is a secondary school up to four sponsor governors; and
- (b) the foundation may appoint such number of foundation governors (up to two or, where the school is a secondary school, up to four) as are required to preserve their majority.

(a) Within the meaning of section 5(2) of EA 1996.

(b) Within the meaning of section 20 of and Schedule 2 to SSFA 1998.

(c) Within the meaning of section 20 of and Schedule 2 to SSFA 1998.

Voluntary controlled schools

17.—(1) The governing body of a voluntary controlled school(a) is to comprise the following:

- (a) one third or more parent governors;
- (b) at least two but no more than one third staff governors;
- (c) at least one but no more than one fifth LEA governors;
- (d) one tenth or more community governors; and
- (e) at least two but no more than one quarter foundation governors.

(2) The governing body may in addition appoint up to two sponsor governors or, where the school is a secondary school, up to four sponsor governors.

Voluntary aided schools

18.—(1) The governing body of a voluntary aided school(b) is to comprise the following:

- (a) at least one but no more than one tenth LEA governors;
- (b) at least two but no more than one third staff governors;
- (c) at least one parent governor;
- (d) such number of foundation governors as out number all the other governors listed in subparagraphs (a) to (c) by two; and
- (e) such number of foundation governors who are eligible for election or appointment as parent governors that, 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 governing body may appoint up to two sponsor governors, or where the school is a secondary school up to four sponsor governors; and
- (b) the person who is entitled to appoint foundation governors may appoint such number of foundation governors (up to two or, where the school is a secondary school, up to four) as are required to preserve their majority.

Notification of appointments

19. Where any person makes an appointment or nominates a person to be appointed to the governing body, he must give written notice of the appointment or the nomination to the clerk to the governing body specifying the name and usual place of residence of the person appointed or nominated.

Surplus governors

20. Where a maintained school has more governors of a particular category than are provided for by the instrument of government for the school, a governor of that category may serve out his term of office.

(a) Within the meaning of section 20 of and Schedule 2 to SSFA 1998.

(b) Within the meaning of section 20 of and Schedule 2 to SSFA 1998.

Part 4

Qualifications and Tenure of Office

Qualifications and disqualifications

21. Schedule 6 sets out the circumstances in which a person is qualified for or disqualified from holding or continuing in office as a governor.

Term of Office

22.—(1) Subject to paragraphs (2) to (5), a governor is to hold office for a fixed period of four years from the date of his election or appointment.

(2) Paragraph (1) does not apply to any staff governor who is the head teacher of the school, or to any ex officio foundation governor, who may hold office for as long as he holds the position from which his governorship derives.

(3) Paragraph (1) does not apply to any additional governor, additional foundation governor or interim executive member appointed under Part 4 of the Education and Inspections Act 2006^(a) whose term of office will be determined by the person who appointed him, up to a maximum of four years.

(4) The instrument of government may specify a shorter term of office for a particular category of governor, not being less than one year.

(5) A substitute governor holds office until the earlier of the following—

- (a) the expiry of four years from the date when his appointment takes effect;
- (b) the date when the original governor (not having been removed from office under regulation 24(2)) gives written notice to the clerk to the governing body to the effect that he is able and willing to act as a foundation governor; or
- (c) the date when a person other than the original governor takes office in the post by virtue of which the ex officio foundation governorship exists.

(6) This regulation does not prevent a governor from—

- (a) being elected or appointed for a further term, save as otherwise provided in these Regulations;
- (b) resigning his office in accordance with regulation 23(1);
- (c) being removed from office under regulations 24 to 27; or
- (d) being disqualified, by virtue of any provision of these Regulations, from holding or continuing to hold office.

(7) In this regulation “the original governor” means the ex officio foundation governor in whose place the substitute governor is appointed to act.

Resignation

23.—(1) A governor may at any time resign his office by giving written notice to the clerk to the governing body.

(2) The head teacher may withdraw his resignation at any time by giving written notice to the clerk to the governing body.

(3) An ex officio foundation governor may resign as governor either permanently or temporarily, but his resignation does not prejudice the ex officio governorship of his successor in the office from which the ex officio governorship derives.

(a) 2006 c.40.

Removal of LEA and foundation governors

24.—(1) Any LEA governor or foundation governor may be removed from office by the person who appointed him, who must give written notice thereof to the clerk to the governing body and to the governor so removed.

(2) A person proposing the removal of an ex officio foundation governor must inform the clerk to the governing body and the governor in question in writing of the reasons why he is proposing his removal.

(3) The governing body may, in accordance with the procedure set out in regulation 27, remove any ex officio foundation governor at the request of the person named in the instrument of government as the person entitled to make such a request.

Removal of community governors, partnership governors and sponsor governors

25.—(1) Any community governor, partnership governor or sponsor governor may be removed from office by the governing body in accordance with the procedure set out in regulation 27.

(2) A nominating body proposing the removal of such a governor must inform the clerk to the governing body and the governor in question in writing of the reasons why it is proposing his removal.

(3) The governing body may, in accordance with the procedure set out in regulation 27, remove any community governor appointed in accordance with Schedule 3, or any sponsor governor at the request of the nominating body.

(4) In this Part, “nominating body” means any person from whom nominations were sought for the purpose of appointing, and who nominated, the governor in question.

Removal of appointed parent governors

26. Any parent governor appointed by the governing body under paragraphs 9 to 11 of Schedule 1 may be removed by the governing body in accordance with the procedure set out in regulation 27.

Procedure for removal of governors by the governing body

27.—(1) This regulation applies in relation to the removal of a governor from office in accordance with regulation 24(3), 25 or 26.

(2) A resolution to remove a governor from office which is passed at a meeting of the governing body will not have effect unless—

- (a) in relation to the removal of a governor under regulation 24(3) and 25(3), before the governing body resolve to remove the governor from office, the clerk to the governing body must give the reasons for removal provided by the person referred to in regulation 24(3) or by the nominating body (as appropriate) and the governor whom it is proposed to remove must be given an opportunity to make a statement in response;
- (b) in relation to the removal of a community governor, a partnership governor or a sponsor governor under regulation 25(1) or a parent governor under regulation 26, before the governing body resolve to remove the governor from office, the governor or governors proposing his removal must at that meeting state their reasons for doing so and the governor who it is proposed to remove must be given an opportunity to make a statement in response;
- (c) it is confirmed by a resolution passed at a second meeting of the governing body held not less than fourteen days after the first meeting; and
- (d) the matter of the governor’s removal from office is specified as an item of business on the agenda for each of those meetings.

Part 5

Instrument of Government

Interpretation of “appropriate diocesan authority” and “appropriate religious body”

28. In this Part—

“appropriate diocesan authority” has the meaning given by section 142(1) and (4) of SSFA 1998; and

“appropriate religious body”, in relation to a school designated under section 69(3) of SSFA 1998 as having a religious character that is not a Church of England school or a Roman Catholic Church school, means the body that the Secretary of State considers appropriate in relation to the religion or religious denomination to which the school belongs.

Duty to have regard to guidance

29. In respect of the making of instruments of government, the matters to be dealt with in such instruments, the form of such instruments, and the review and variation of such instruments, governing bodies and local education authorities must have regard to any guidance given from time to time by the Secretary of State.

Contents and form of instrument of government

30.—(1) The instrument of government for a maintained school must set out—

- (a) the name of the school;
- (b) the category of school to which the school belongs, including where appropriate:
 - (i) whether the school has a foundation, and
 - (ii) whether the school is a qualifying foundation school;
- (c) the name of the governing body of the school;
- (d) the manner in which the governing body is to be constituted in accordance with Part 3 of these Regulations, specifying—
 - (i) the number of governors in each category of governor, and
 - (ii) the total membership of the governing body, including any sponsor governors and additional foundation governors appointed in accordance with regulation 16(2)(b) or 18(2)(b);
- (e) where the term of office for a category of governor is to be less than four years, the length of that term of office;
- (f) where the school has foundation governors—
 - (i) the name of any person who is entitled to appoint such governors and, if there is more than one such person, the basis upon which such appointments are made,
 - (ii) details of any foundation governorship to be held ex officio by the holder of a named office, and
 - (iii) the name of any person who is entitled to request the removal of any ex officio foundation governor and to appoint any substitute governor;
- (g) where the school has sponsor governors, the name of any sponsor who is entitled to nominate persons for appointment as such governors under Schedule 5;
- (h) where the school is a maintained special school, the name of any body entitled to nominate a person for appointment as a community governor under Schedule 3;
- (i) where the school is a foundation or a voluntary school designated under section 69(3) of SSFA 1998 as having a religious character, a description of the religious ethos of the school; and

(j) the date when the instrument of government takes effect.

(2) The manner in which the governing body is to be constituted, as set out in accordance with sub-paragraph (1)(d), must accord with the provisions of these Regulations as they apply to a school of the category to which the school belongs and, where appropriate, the nature of the school as specified in accordance with sub-paragraph (1)(b).

(3) Where the school has a foundation, the instrument of government must (subject to any statutory provision) comply with the foundation's governing documents, including any trust deed relating to the school.

Duty to make instrument of government and procedure for making the instrument

31.—(1) The governing body must prepare a draft of the instrument of government and submit it to the local education authority which will make it in accordance with this regulation.

(2) Where the school has foundation governors, the governing body must not submit the draft to the local education authority unless it has been approved by—

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

(3) On receiving the draft, the local education authority must consider whether it complies with all applicable statutory provisions, and if—

- (a) they are content that the draft so complies, or
- (b) there is agreement between it, the governing body and (if the school has foundation governors) the persons mentioned in paragraph (2) that the draft should be revised to any extent, and the revised draft complies with all the applicable statutory provisions,

the instrument of government must be made by them in the form of the draft or (as the case may be) in the form of the revised draft.

(4) If neither of sub-paragraphs (a) and (b) of paragraph (3) applies in the case of a school which does not have foundation governors, the local education authority must—

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

and the instrument of government must be made by them either in the form of a revised draft agreed between them and the governing body or (in the absence of such agreement) in such form as they think fit having regard, in particular, to the category of school to which the school belongs and, where the school has a foundation, to its relationship with its foundation as specified in accordance with regulation 30(1)(b).

Review of instrument of government

32.—(1) The governing body or the local education authority may review the instrument of government at any time after it is made.

(2) Where, on any review, the governing body or the local education authority decides that the instrument of government should be varied, the governing body or (as the case may be) the local education authority must notify the other of their proposed variation together with their reasons for proposing such a variation.

(3) Where the governing body has received notification under paragraph (2), they must inform the local education authority as to whether or not they are content with the proposed variation and, if not content, their reasons.

(4) Where the school has foundation governors, the governing body must not give the local education authority—

- (a) any notification under paragraph (2), or
- (b) inform the authority under paragraph (3) that they are content with the authority's proposed variation,

unless the persons listed in regulation 31(2) have approved the proposed variation.

(5) If—

- (a) whichever of the governing body and the local education authority is the recipient of a notification under paragraph (2) agrees with the proposed variation, or
- (b) there is agreement between the local education authority, the governing body and (if the school has foundation governors) the other persons listed in regulation 31(2) that some other variation should be made instead,

the instrument of government must be varied accordingly by the local education authority.

(6) If neither sub-paragraph (a) or (b) of paragraph (5) applies in the case of a school which does not have foundation governors, the local education authority must—

- (a) inform the governing body of the reasons—
 - (i) why they are not content with the governing body's proposed variation, or as the case may be,
 - (ii) why they wish to proceed with their own variation, and
- (b) give the governing body a reasonable opportunity to reach agreement with them with regard to the variation, and

the instrument of government must be varied by them either in the manner agreed between them and the governing body or (in the absence of such agreement) in such manner as they think fit, having regard, in particular, to the category of school to which the school belongs and, where appropriate, to the nature of the school as specified in accordance with regulation 30(1)(b).

(7) The requirement under regulation 31(3) for the local education authority to consider compliance with all applicable statutory provisions, applies in relation to a proposed variation of an instrument of government as it applies in relation to a draft of such an instrument.

(8) Where the instrument of government is varied under this regulation the instrument must set out the date on which the variation takes effect.

Other requirements relating to instruments of government

33.—(1) The local education authority must ensure that the persons set out in paragraph (2) are provided (free of charge) with—

- (a) a copy of the school's instrument of government;
- (b) where any variation is made to the school's instrument of government, a consolidated version of the instrument of government incorporating all variations made by order of the local education authority (other than variations which have ceased to have effect).

(2) The persons who are to be provided with the information referred to in paragraph (1) are—

- (a) every member of the governing body of the school;
- (b) the head teacher, whether or not the head teacher is a member of the governing body;
- (c) where the school has a foundation, the trustees in relation to such foundation;
- (d) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority; and
- (e) in the case of any other school designated under section 69(3) of SSFA 1998 as having a religious character, the appropriate religious body.

22nd March 2007

Jim Knight
Minister of State
Department for Education and Skills

SCHEDULE 1

Regulation 4

Election and appointment of parent governors

1. Subject to paragraphs 2 and 3, in this Schedule “appropriate authority” means—
 - (a) in relation to a community school, a community special school, a maintained nursery school or a voluntary controlled school, the local education authority; and
 - (b) in relation to a voluntary aided school, foundation school or foundation special school, the governing body.
2. Where a local education authority is the appropriate authority in relation to a school, that authority may delegate to the head teacher of the school any of their functions under this Schedule.
3. The local education authority may be the appropriate authority in relation to a school within paragraph 1(b) if the governing body and the local education authority so agree.
4. Subject to paragraphs 5 to 8 the appropriate authority must make all the necessary arrangements for the election of parent governors.
5. The power conferred by paragraph 4 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.
6. Any election which is contested must be held by ballot.
- 7.—(1) The arrangements made under paragraph 4 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” includes delivery by hand.
 - (3) The arrangements made under paragraph 4 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 authority 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, and where the school is a maintained nursery school, 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 EA 2002), 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.
9. The number of parent governors required must be made up by 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 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 or foundation special school established in a hospital, it would, in the opinion of the appropriate authority, be impractical for there to be an election of parent governors.

10.—(1) Except where paragraph 11 applies, the governing body must appoint as a parent governor—

- (a) a parent of a registered pupil at the school;
- (b) a parent of a former registered pupil at the school; or
- (c) a parent of a child under or of compulsory school age.

(2) The governing body may 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, the governing body must appoint—

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

(2) The governing body may 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 2

Regulation 5

Election of staff governors

1. In this Schedule “appropriate authority” has the same meaning as in Schedule 1.

2. Where an authority is the appropriate authority in relation to a school, that authority may delegate to the head teacher of the school any of their functions under this Schedule.

3. Subject to paragraphs 4 and 5, the appropriate authority must make all the necessary arrangements for the election of staff governors.

4. The power conferred by paragraph 3—

- (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.

5. Any election which is contested must be held by ballot.

SCHEDULE 3

Regulation 7(2)

Appointment of community governors at community special schools and foundation special schools

1. Subject to paragraphs 2 and 3, the governing body of a community special school or a foundation special school must appoint community governors in accordance with regulation 7(1).

2.—(1) In relation to a community special school or foundation special school established in a hospital, the local education authority must designate—

- (a) one or more primary care trusts, or
- (b) the National Health Service Trust or NHS foundation trust,

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

(2) The governing body must invite the appropriate body to nominate a person to be appointed as one of the community governors in accordance with regulation 7(2).

(3) For the purposes of this paragraph—

“National Health Service Trust” means a body established by the Secretary of State under section 25 of the National Health Service Act 2006^(a);

“NHS foundation trust” has the same meaning as in section 30(1) of the National Health Service Act 2006; and

“Primary care trust” means a body established or continuing under section 18 of the National Health Service Act 2006.

3. The governing body of a community special school or a foundation special school not established in a hospital must appoint as one of their community governors—

- (a) if a voluntary organisation is designated by the local education 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 nominated by that organisation; or
- (b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a person nominated by those organisations acting jointly.

SCHEDULE 4

Regulation 9

Appointment of partnership governors

1. Where a partnership governor is required in relation to a school which is designated under section 69(3) of SSFA 1998 as having a religious character, the governing body must seek nominations from—

- (a) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority; and
- (b) in any other case, the appropriate religious body.

2. Where a partnership governor is required in relation to a school which does not have a religious character, the governing body must seek nominations from parents of registered pupils at the school, and from such other persons in the community served by the school as they consider appropriate.

3. 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 as a community governor.

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.

6. Where the governing body makes an appointment under paragraph 5(2), having rejected any person nominated under paragraphs 1 or 2, they must give written reasons for their decision to—

- (a) the local education authority;

(a) 2006 c.41.

- (b) the person or body who nominated the person rejected; and
- (c) the person rejected.

7. The governing body must make all necessary arrangements for and determine all other matters relating to the nomination and appointment of partnership governors.

8. For the purposes of this Schedule, “appropriate diocesan authority” and “appropriate religious body” have the meanings given by regulation 28.

SCHEDULE 5

Regulation 10

Appointment of sponsor governors

1.—(1) In this Schedule, “sponsor” in relation to a school means—

- (a) a person who gives or has given substantial financial assistance (which for these purposes includes benefits in kind) to the school other than pursuant to statutory obligation; or
 - (b) any other person (not being otherwise represented on the governing body) who provides or has provided substantial services to the school,
- provided that, in either case, such person is not entitled to appoint the foundation governors nor connected to any person so entitled.

(2) For the purposes of this paragraph, a person is connected with a person entitled to appoint foundation governors where—

- (a) he is a partner or relative (including a spouse or someone living with that person as if he or she were that person’s spouse); or
- (b) either or both persons are a body corporate and one owns at least one-fifth of the other’s equity share capital (within the meaning of the Companies Act 1985(a)), or is entitled to exercise or control the exercise of more than one-fifth of the voting power of the other at any general meeting.

2. Where the school has one or more sponsors, the governing body may determine that the instrument of government will provide for the governing body to appoint such number of sponsor governors, not exceeding two or four, as the case may be, nominated in accordance with paragraph 3.

3. The governing body must seek nominations for such appointments from the sponsor or (as the case may be) from one or more of the sponsors.

SCHEDULE 6

Regulation 22

Qualifications and disqualifications

General

1.—(1) A person is disqualified from holding or from continuing to hold office as a governor of a school at any time when he is a registered pupil at the school.

(2) No person is qualified to be a governor unless he is aged 18 or over at the date of his election or appointment.

(3) Sub-paragraphs (1) and (2) do not apply to an associate member appointed under regulation 11.

(a) The Companies Act 1985 has been prospectively repealed and replaced by the Companies Act 2006.

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 school does not disqualify him from election or appointment or from continuing as a governor of any other category at that school.

Mental disorder

4. A person is disqualified from holding or from continuing to hold office as a governor of a school at any time when he is detained under the Mental Health Act 1983(a).

Failure to attend meetings

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

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

(3) A foundation governor (other than an ex officio foundation governor), LEA governor, community governor, partnership governor or sponsor governor who has been disqualified as a governor of a school under sub-paragraph (2) is not qualified for election, nomination or appointment as a governor of any category at that school during the twelve months immediately following his disqualification under sub-paragraph (2).

Bankruptcy

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

- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
- (b) he is the subject of a bankruptcy restrictions order or an interim order.

Disqualification of company directors

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

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(b);
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(c);
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002(d); or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(e) (*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 school if—

(a) 1983 c.20.
(b) 1986 c.46.
(c) S.I. 1989/2404 (N.I. 18). This has been prospectively repealed by the Companies Act 2006.
(d) S.I. 2002/3150 (N.I. 4).
(e) 1986 c.45.

- (a) he 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 was responsible or to which he was privy, or to which he contributed or which he facilitated by his conduct; or
- (b) he has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005^(a) (*Powers of Court of Session*), 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 school at any time when he is—

- (a) included in the list kept under section 1 of the Protection of Children Act 1999^(b) (list of those considered by the Secretary of State as unsuitable to work with children);
- (b) subject to a direction of the Secretary of State under section 142 of EA 2002 (or any other disqualification, prohibition or restriction which takes effect as if contained in such a direction);
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000^(c);
- (d) disqualified from registration under Part 10A of the Children Act 1989^(d) for child minding or providing day care; or
- (e) disqualified from registration under Part 3 of the Childcare Act 2006^(e).

Criminal convictions

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

(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 appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor by virtue of his office,

he has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him 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 appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, he has been convicted as aforesaid of any offence and has had passed on him 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 has at any time been convicted as aforesaid of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

(a) 2005 asp 10.

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

(c) 2000 c.43.

(d) 1989 c.41.

(e) 2006 c.21.

(5) For the purposes of sub-paragraphs (2) to (4) above, 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 under the law in force in that part of the United Kingdom 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 appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor by virtue of his office, or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor by virtue of his office,

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

Refusal to make an application for a criminal records certificate

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

Notification to clerk

12. Where, by virtue of any of paragraphs 6 to 10—

- (a) a person is disqualified from holding, or from continuing to hold, office as a governor of a school; and
- (b) he is, or is proposed to become, a governor,

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

(a) As amended by SSFA 1998 and by section 206 of and Schedule 20 to EA 2002 and by section 6 of and Schedule 1 to the Education and Inspections Act 2006 (c.40).
(b) 1992 c.13; inserted by section 206 of and Schedule 20 to EA 2002.
(c) 1997 c.50; inserted by section 163 of the Serious Organised Crime and Police Act 2005 (2005 c.15).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the arrangements for the constitution of governing bodies of maintained schools, which for these purposes includes maintained nursery schools, in England.

Part 1 provides for the Regulations to come into force on 25th May 2007, sets out the Regulations that are to be revoked or amended and contains the interpretation provisions. The reference in the definition of a “qualifying foundation school” to “a foundation established otherwise than under the School Standards and Framework Act 1998” is to a foundation which is not a foundation body in each case within the meaning of section 21 of that Act.

Part 2 describes the various categories of governor. Regulation 4 and Schedule 1 deal with parent governors and set out the basis on which a person may qualify to stand for election and to vote for a parent governor or to be appointed as a parent governor.

Regulation 5 deals with staff governors. This category includes both teaching and non-teaching staff and the head teacher of the school. The head teacher is a staff governor by virtue of his position but may resign his governorship (or withdraw his resignation) at any time. Schedule 2 deals with the election process for the other staff governors.

Regulation 6 deals with the appointment of LEA governors.

Regulation 7 sets out who is eligible for appointment as a community governor. Schedule 3 sets out provisions that apply to the appointment of community governors in special schools.

Regulation 8 deals with the appointment of foundation governors, including ex officio foundation governors and substitute governors. Regulation 9 and Schedule 4 deal with the nomination process for, and the appointment of, partnership governors.

Regulation 10 and Schedule 5 make provision for the appointment of an optional category of sponsor governor.

Regulation 11 provides for the appointment of persons who are not governors (known as associate members) to committees of the governing body.

Part 3 sets out the general principles by which the size and composition of school governing bodies are to be determined. Regulations 13 to 18 set out the specific requirements for the constitution of the governing bodies of each category of school.

Regulation 19 sets out the requirements to be observed by a person wishing to exercise the power of nominating or appointing a governor. Regulation 20 provides for surplus governors to serve out their term of office.

Part 4 deals with qualifications and term of office. Regulation 21 and Schedule 6 set out the circumstances in which a governor (or associate member) is disqualified from standing for election, being appointed or continuing in office as a governor.

Regulation 22 provides that (with some exceptions) a governor’s term of office is a maximum of 4 years. In the event that an ex officio foundation governor is unable or unwilling to take up office, a substitute governor may be appointed. Regulation 23 sets out the procedure for resigning as a governor. Regulations 24 to 27 provide for the removal of governors who have been appointed (rather than elected) to office.

Part 5 deals with the procedure for making, reviewing and varying instruments of government and the content of instruments. Regulation 29 sets out the duty to have regard to guidance given by the Secretary of State in this regard. Regulation 33 sets out the duty to provide copies of the instrument of government to every member of the governing body, the head teacher, the trustees of the school (if any) and the diocesan authority or other appropriate religious body (in the case of faith schools).

£4.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0546 4/2007 170546T 19585