WELSH STATUTORY INSTRUMENTS

# 2005 No. 2914 (W.211)

# EDUCATION, WALES

## The Government of Maintained Schools (Wales) Regulations 2005

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| *Made - - - -* | *18 October 2005* |
| | *in accordance with* |
| *Coming into force - -* | *regulation 1(1)* |

The National Assembly for Wales, in exercise of the powers conferred on it by sections 19(2) and (3), 20(2) and (3), 21(3), 23, 210(7) and 214 (1) and (2) of the Education Act 2002(**1**), makes the following regulations—

## PART 1

*Introduction*

### Title, commencement and application

**1.**—(1) The title of these Regulations is the Government of Maintained Schools (Wales) Regulations 2005 and they come into force on 31 October 2005, except for paragraph (2) of regulation 2, and regulation 38 and Schedule 6, which come into force on 1 January 2006.

(2) These Regulations apply in relation to Wales.

### Revocations, savings and amendments

**2.**—(1) The Education (School Government) (Transition to New Framework) Regulations 1998(**2**) are hereby revoked.

(2) The Education (School Government) (Wales) Regulations 1999(**3**) are revoked with effect from 1 January 2006, except for the following provisions which remain in force in respect of every maintained school until a new instrument of government is made for the school in accordance with regulation 33—

Regulation 1 except for the words "and new schools" in paragraph (3);

(**1**) 2002 C.32.
(**2**) S.I.1998/2763, as amended by S.I. 1999/362, 1999/2242 (W. 2), 2001/2263 (W. 164).
(**3**) S.I. 1999/2242 (W. 2) as amended by S.I. 2001/2263 (W. 164).

Regulation 2(1) except for the definitions of "the First Transitional Regulations", "new school" "School Organisation Regulations" and "the Second Transitional Regulations";

Regulation 2(2) except for the definitions of "temporary governing body" and "temporary governors";

Regulation 3 except for the words "or temporary governing body (however constituted)" and "or (as the case may be) new school";

Regulation 4 except for the words in brackets, for which are substituted the words "in accordance with the 1998 Act";

Regulation 5(1) (a) except for the words "or will maintain" and "or a new school"; and after the words "for which an instrument of government has been made" are added the words "in accordance with the 1998 Act";

Regulation 5(2) (i), (iii) and (iv), except for the words "and (b)" and the words "or, in the case of a new school which has not opened, the diocesan authority which will be the appropriate diocesan authority when the school opens";

Regulation 6(1) and Schedule 1;

Regulations 9 to 12 and Schedules 2 to 4;

Regulation 15 except for the words "Subject to Part VIII (transitional provisions), Schedule 6 sets", for which are substituted "Paragraphs (12) to (16) of Schedule 6 to these Regulations and Schedule 5 to the Government of Maintained Schools (Wales) Regulations 2005 set", and paragraphs (12) to (16) of Schedule 6;

Regulations 16 and 17;

Regulation 18 except in paragraph (1) for the words "and to Part VIII (transitional provisions)"; and

Regulations 19 and 20.

(3) Paragraph (1) of regulation 31 of the Education (New Schools) (Wales) Regulations 1999(**4**), is amended by substituting the words "Part 5 of the Government of Maintained Schools (Wales) Regulations 2005" for the words "Schedule 12 to the 1998 Act".

## Interpretation

**3.**—(1) In these Regulations—

"the 1996 Act" ("*Deddf 1996*") means the Education Act 1996(**5**);

"the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998(**6**);

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002;

"school teacher" ("*athro neu athrawes ysgol*") is to be interpreted in accordance with section 122 of the 2002 Act;

"working day" ("*diwrnod gwaith*") means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(**7**).

(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;

(**4**) S.I. 1999/2243; this regulation is also amended by regulation 6 of the Education Act 2002 (Transitional Provisions etc) (Wales) Regulations 2005, S.I. 2005/2913 (W. 210).
(**5**) 1996 c. 56.
(**6**) 1998 c. 31.
(**7**) 1971 c. 80.

(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.

(3) Any reference in these Regulations to—

(a) a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule bearing that number in these Regulations;

(b) a numbered paragraph is a reference to the paragraph bearing that number in the regulation or Schedule in which the reference appears; and

(c) a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in the paragraph in which the reference appears.

# PART 2

*Categories of Governor*

**Parent governors**

**4.**—(1) In these Regulations "parent governor" ("*rhiant-lywodraethwr*") means—

(a) a person who is elected in accordance with paragraphs 4 to 9 of Schedule 1 as a governor by parents of registered pupils at the school and is himself or herself such a parent at the time when he or she is elected, or

(b) a person appointed as a parent governor in accordance with paragraphs 10 to 12 of Schedule 1.

(2) A person is disqualified from appointment as a parent governor in accordance with paragraphs 10 to 12 of Schedule 1 if he or she is—

(a) an elected member of the local education authority;

(b) employed by the local education authority in connection with its functions as a local education authority; or

(c) paid to work at the school for more than 500 hours in any twelve month period commencing on 1 August and finishing on 31 July,

unless he or she is a parent of a registered pupil at the school.

(3) A person is not disqualified from continuing to hold office as a parent governor when he or she ceases to be a parent of a registered pupil at the school or to fulfil any of the requirements set out in paragraphs 11 and 12 of Schedule 1 (as the case may be) unless he or she is otherwise disqualified under these Regulations.

(4) Schedule 1 applies to the election and appointment of parent governors.

**Teacher governors**

**5.**—(1) In these Regulations "teacher governor" ("*athro neu athrawes lywodraethwr*") means a person—

(a) who is elected in accordance with Schedule 2 as a governor by school teachers at the school, and

(b) who is himself or herself such a school teacher at a time when he or she is elected.

(2) Upon ceasing to work at the school a teacher governor is disqualified from continuing to hold office as such a governor.

**Staff governors**

**6.**—(1) In these Regulations "staff governor" ("*staff lywodraethwr*") means a person—

(a) who is elected in accordance with Schedule 2 as a governor by persons employed to work at the school otherwise than as school teachers, and

(b) who is himself or herself a person so employed at the time when he or she is elected;

and for this purpose "employed" ("*a gyflogir*") means employed under a contract of employment or a contract for services.

(2) Where the instrument of government of a maintained nursery school makes provision in accordance with regulation 14(3), "staff governor" ("*staff lywodraethwr*") means a person—

(a) who is elected in accordance with Schedule 2 as a governor by persons employed to work at the school, and

(b) who is himself or herself a person so employed at the time when he or she is elected;

and for this purpose "employed" ("*a gyflogir*") means employed under a contract of employment or a contract for services.

(3) Upon ceasing to work at the school, a staff governor of a school is disqualified from continuing to hold office as such a governor.

**LEA governors**

**7.**—(1) In these Regulations "LEA governor" ("*llywodraethwr AALl*") means a person who is appointed as a governor by the local education authority.

(2) A person is disqualified from appointment or continuing to hold office as a LEA governor of a school if he or she is eligible to be a teacher or staff governor of the school.

**Community governors**

**8.**—(1) In these Regulations—

"community governor" ("*llywodraethwr cymunedol*") means a person who is appointed as a governor by the governing body and who is—

(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;.

"additional community governor" ("*llywodraethwr cymunedol ychwanegol*") means a governor appointed in accordance with regulation 20.

(2) A person is disqualified from appointment or continuing to hold office as a community governor of a school if he or she is—

(a) a registered pupil at the school;

(b) eligible to be a teacher or staff governor of the school.

(3) A person is disqualified from appointment as a community governor of a school if he or she is an elected member of the local education authority.

(4) Paragraphs (2) and (3) do not apply in the case of an additional community governor.

**Foundation governors**

**9.**—(1) In these Regulations—

"foundation governor" ("*llywodraethwr sefydliedig*") means a person who is appointed as a governor otherwise than by the local education authority and who—

(a) where the school has a particular religious character(**8**), is appointed for the purpose of securing that that character is preserved and developed,

(b) where there is a trust relating to the school, is appointed for the purpose of securing that the school is conducted in accordance with that trust, or

(c) where the school does not have a religious character and there is no trust relating to it, is appointed as a foundation governor of the school;

"*ex officio* foundation governor" ("*llywodraethwr sefydliedig ex officio*") means a foundation governor who is the holder of an office by virtue of which he or she is entitled to be a foundation governor;

"substitute governor" ("*dirprwy lywodraethwr*") means a foundation governor appointed to act in the place of an *ex officio* foundation governor—

(a) who is unwilling or unable to act as a governor,

(b) who has been removed as a governor under regulation 27(2), or

(c) if there is a vacancy in the office by virtue of which such a governorship exists.

(2) An *ex officio* foundation governor is, upon ceasing to hold the office from which his or her governorship derives, disqualified from continuing to hold office as such a governor.

**Partnership governors**

**10.**—(1) In these Regulations "partnership governor" ("*llywodraethwr partneriaeth*") means a person who is nominated as a partnership governor and appointed as such in accordance with Schedule 3.

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

(a) a parent of a registered pupil at the school;

(b) a registered pupil at the school;

(c) eligible to be a teacher or staff governor of the school;

(d) an elected member of the local education authority; or

(e) employed by the local education authority in connection with its functions as a local education authority.

**Sponsor Governors**

**11.** In these Regulations "sponsor governor" ("*noddwr-lywodraethwr*") means a person who is nominated as a sponsor governor and is appointed as such by the governing body in accordance with Schedule 4.

(**8**) As designated by Order of the National Assembly for Wales under section 69(3) of the 1998 Act. *See* the Designation of Schools Having a Religious Character (Wales) Order 1999, S.I. 1999/1814 and the Designation of Schools Having a Religious Character and Amendments (Wales) Order 2004, S.I. 2004/1734 (W. 177).