
STATUTORY INSTRUMENTS

1999 No. 2242

The Education (School Government) (Wales) Regulations 1999

PART V

MEETINGS AND PROCEEDINGS OF GOVERNING BODIES

Restrictions on delegation

42.—(1) The governing body may not delegate under regulation 41(1) functions referred to in paragraphs (2) to (5) or functions relating to the powers conferred and the duties imposed on governing bodies by or under—

- (a) section 394 of the 1996 Act (which relates to application to advisory councils concerning the requirements for Christian collective worship);
- (b) section 403 of the 1996 Act (which relates to sex education);
- (c) section 406 and 407 of the 1996 Act (which relate to the prohibition of political indoctrination and the balanced treatment of political issues);
- (d) section 457 of the 1996 Act (which relates to policies on charges and remissions);
- (e) section 12(2)(1) of the 1998 Act (which relates to the making of arrangements for the discharge of governing body functions by or ceding of governing body functions to an Education Action Forum and the request to an Education Action Forum to cease discharging functions on their behalf);
- (f) sections 28, 29, 30 or 31 of, or paragraph 10(4) of Schedule 6 to, the 1998 Act (which relate to alteration or discontinuance of maintained schools);
- (g) sections 28 or 31 of the 1998 Act as they have effect (by virtue of regulations under Schedule 8 to the 1998 Act) in relation to proposals made under that Schedule (which relates to change of category of maintained schools);
- (h) section 41 of the 1998 Act (which relates to the times of school sessions and the dates of school terms and holidays);
- (i) section 42 of the 1998 Act (which relates to the governors' annual report to parents) in so far as approval of the governors' report is concerned;
- (j) the local education authority's scheme under section 48(1) of the 1998 Act, to the extent that it requires the governing body to give their approval to the first formal budget plan of the financial year;
- (k) section 61(1) to (3) of the 1998 Act (which relate to school discipline policies);
- (l) sections 88, 89, 90(8) and 91 of the 1998 Act (which relate to determination of admission arrangements), section 90(1)(2) of the 1998 Act (which relates to the decision to object to the admissions arrangements of another admissions authority), section 93 of and

(1) Section 12 of the 1998 Act will not apply in relation to Wales unless an Order to that effect has been made by the Assembly—see section 10(8) of the 1998 Act. No such Order has yet been made.

(2) Section 90(5) of the 1998 Act alters the effect of section 90(1) in relation to Wales.

- Schedule 23 to the 1998 Act (which relate to fixing admission numbers and variation of standard numbers), and section 94 of the 1998 Act (in so far as it relates to the determination of appeal arrangements by the governing body);
- (m) section 110(1) and (7) of the 1998 Act (which relate to adoption and review of home-school agreements);
 - (n) paragraph 4(4) or (5) of Schedule 11 to the 1998 Act (which relate to the regulation of procedure);
 - (o) paragraphs 6 of Schedule 16 and 7 and 30 of Schedule 17 to the 1998 Act (which relate to head teacher and deputy head teacher selection panels);
 - (p) paragraphs 10 to 16 of Schedule 16 and paragraphs 11 to 16 of Schedule 17 to the 1998 Act (which relate to appointment of teachers other than the head teacher or deputy head teacher)⁽³⁾;
 - (q) paragraphs 27(2) of Schedule 16 and paragraph 24(2) of Schedule 17 to the 1998 Act (which relate to the making of arrangements for appeals in cases of dismissal);
 - (r) paragraph 2 of Schedule 20 to the 1998 Act (which relates to arrangements for collective worship);
 - (s) regulation 29 or 31 (which relate to the appointment of the chairman and vice-chairman of a governing body);
 - (t) regulation 30 (which relates to removal of the chairman of the governing body);
 - (u) regulation 34(1) or (2) (which relate to the requirement to hold a governing body meeting once a term, or a meeting of the temporary governing body, as often as occasion may require);
 - (v) statutory provisions relating to the decision to delegate functions, or the establishment, constitution and review of committees, including selection panels;
 - (w) statutory provisions relating to the contents, preparation or variation of the instrument of government;
 - (x) statutory provisions relating to the appointment, co-option or removal of governors including temporary governors; and
 - (y) Part III of the Education (School Information) (Wales) Regulations 1997⁽⁴⁾ (which relates to information to be published by governing bodies) in so far as approval of the school prospectus (referred to in regulation 9 of those Regulations) is concerned.
- (a) (2) (a) The following functions of the governing body of a school shall be delegated to a committee, to be known as the staff dismissal committee, in accordance with regulation 47—
- (i) at a community, voluntary controlled or community special school, the initial determination under paragraph 25 of Schedule 16 to the 1998 Act that any person employed by the local education authority to work at the school should cease to work there;
 - (ii) at a foundation, voluntary aided or foundation special school, the initial decision that a person employed to work at the school should have his contract of employment with the governing body terminated or should not have that contract renewed (except where the dismissal is pursuant to a direction of the local education authority under section 55(5) of the 1998 Act):

(3) These functions are not delegated under regulation 41 because there are specific powers of delegation (to one or more governors, the head teacher, or one or more governors and the head teacher in paragraph 17 of Schedule 16 and paragraph 17 of Schedule 17 to the 1998 Act.

(4) S.I.1997/1832, amended by S.I. 1998/2697 and S.I. 1999/127.

- (iii) the hearing of representations in relation to a decision which must be delegated under this sub-paragraph.
- (b) The hearing of any appeal in respect of a decision which must be delegated under sub-paragraph (a) shall be delegated to a committee, known as the dismissal appeal committee, in accordance with regulation 47.
- (3) The governing body of a school shall in accordance with regulation 48 establish a committee, to be known as the pupil discipline committee, to discharge the functions conferred on them by sections 65 to 68 of the 1998 Act (exclusion of pupils).
- (4) Any power of the governing body of a school to determine whether any child should be admitted to the school shall not be delegated to an individual, but may be delegated to a committee, to be known as an admissions committee, in accordance with regulation 49.
- (5) The functions of the governing body of a school—
 - (a) under section 63 of the 1998 Act (school attendance targets),
 - (b) under section 439(7) of the 1996 Act (school attendance orders),
 - (c) under sections 95(2) and 97(3) of the 1998 Act (appeal against decision of the local education authority to admit a child and referral to the Secretary of State in respect of a direction made by the local education authority to admit a child), and
 - (d) which consist of the taking of any decision as to the particulars of premises to be submitted to the Secretary of State for approval under section 544 of the 1996 Act,shall not be delegated to an individual but may be delegated to a committee.