



# Education Act 1993

## 1993 CHAPTER 35

### PART II

#### GRANT-MAINTAINED SCHOOLS

#### CHAPTER V

##### GOVERNMENT, CONDUCT ETC. OF GRANT-MAINTAINED SCHOOLS

##### *Governors*

#### **59 Categories of governors**

Schedule 7 to this Act (expressions used in connection with categories of governors) shall have effect.

#### **60 Parent governors**

- (1) Subject to subsection (6) below, the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include parent governors.
- (2) Subject to subsection (7) below, the instrument shall provide for the number of parent governors to be—
  - (a) in the case of a primary school, not less than three nor more than five, and
  - (b) in the case of a secondary school, five.
- (3) The instrument shall provide that if—
  - (a) one or more vacancies for parent governors are required to be filled by election, and
  - (b) the number of parents standing for election as parent governors is less than the number of vacancies,

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the required number of parent governors shall be made up by persons appointed by the other members of the governing body.

- (4) The instrument shall require governors, in appointing a person under a provision made by virtue of subsection (3) above—
  - (a) to appoint a person who is the registered parent of a registered pupil at the school, where it is reasonably practicable to do so, and
  - (b) where it is not, to appoint a person who is the parent of one or more children of compulsory school age.
- (5) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, in relation to the election of a person as a parent governor to the new governing body—
  - (a) section 15(2) to (6) of the Education (No. 2) Act 1986 (qualifications and arrangements for election of parent or teacher governors) shall apply as it applies in relation to the election of a parent governor to the existing governing body, and
  - (b) the new governing body shall inform the authority responsible for election arrangements under that Act of any vacancy arising for a parent governor, and the instrument shall have effect accordingly.
- (6) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the instrument shall have effect as if—
  - (a) before the date of implementation of the proposals, the governing body had power to appoint as parent governors persons who satisfy the prescribed requirements, and
  - (b) the first appointments were to be made before that date.
- (7) In the case of a primary school, the initial instrument shall provide for the number of parent governors to be such number (being not less than three nor more than five) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (8) Subsection (3) above does not apply, in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, to vacancies arising before the date of implementation of the proposals.

## **61 Teacher governors**

- (1) Subject to subsection (4) below, the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include teacher governors.
- (2) Subject to subsection (5) below, the instrument shall provide for the number of teacher governors to be either one or two.
- (3) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, in relation to the election of a person as a teacher governor to the new governing body—
  - (a) section 15(2) to (6) of the Education (No. 2) Act 1986 shall apply as it applies in relation to the election of a teacher governor to the existing governing body, and

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- (b) the new governing body shall inform the authority responsible for election arrangements under that Act of any vacancy arising for a teacher governor, and the instrument shall have effect accordingly.
- (4) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the instrument shall have effect as if—
  - (a) before the date of implementation of the proposals, the governing body had power to appoint as teacher governors persons who satisfy the prescribed requirements, and
  - (b) the first appointments were to be made before that date.
- (5) The initial instrument shall provide for the number of teacher governors to be such number (being either one or two) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.

## **62 Head teacher**

- (1) Subject to subsection (3) below, the instrument of government for the governing body of a grant-maintained school shall provide for the governing body to include (as a governor ex officio) the person who is for the time being the head teacher.
- (2) In the case of a governing body incorporated in pursuance of proposals for acquisition of grant-maintained status, the reference in subsection (1) above to the head teacher, in relation to any time before the date of implementation of the proposals, is to the existing head teacher.
- (3) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the initial instrument of government for the school shall provide, in relation to any time before the date of implementation of the proposals when a person has been appointed to be the head teacher, for the governing body to include (as a governor ex officio) that person.

## **63 First governors**

- (1) The instrument of government for the governing body of a grant-maintained school which—
  - (a) is a county school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 48 of this Act,shall provide for the governing body to include first governors.
- (2) The instrument shall provide for such number of first governors as will secure that they outnumber the other governors.
- (3) Subject to subsections (5) and (6) below, the instrument—
  - (a) shall require—
    - (i) at least two of the first governors to be (on the date or dates on which they respectively take office) parents of registered pupils at the school, and
    - (ii) at least two of the first governors to be (on the date or dates on which they respectively take office) members of the local community,

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- but one person may satisfy both requirements, and
- (b) shall require the governing body, in appointing first governors, to secure that those governors include persons appearing to them to be members of the local business community (and such persons may also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (4) The initial instrument shall provide for the number of first governors to be such number (being a number which will secure that they will outnumber the other governors) as is specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (5) In the case of a grant-maintained school which is a county school immediately before it becomes grant-maintained, the instrument, notwithstanding subsection (3) above, shall have effect in relation to the determination of initial first governors—
- (a) as if—
- (i) it required the first governors to include at least two persons who on the date of their selection or nomination are parents of registered pupils at the school, and
- (ii) it required the first governors to include at least two persons who appear to those selecting or nominating them to be members of the local community,
- but one person might satisfy both requirements, and
- (b) as if it required the first governors to include persons who appear to those selecting or nominating them to be members of the local business community (and such persons might also satisfy one or both of the requirements of paragraph (a)(i) and (ii) above).
- (6) In the case of a grant-maintained school established in pursuance of proposals published under section 48 of this Act—
- (a) any provision of the instrument made by virtue of subsection (3)(a)(i) above shall not apply in relation to the appointment before the date of implementation of the proposals of any first governor, and
- (b) any provision of the instrument made by virtue of subsection (3)(b) above shall apply as if references to the governing body were references to the funding authority.
- (7) References in this section to governors other than first governors do not include sponsor governors.

#### **64 Power of the Secretary of State to replace first governors**

- (1) The instrument of government for the governing body of a grant-maintained school which—
- (a) is a county school immediately before it becomes grant-maintained, or
- (b) is established in pursuance of proposals published under section 48 of this Act,
- shall provide for the Secretary of State to have power, where any of subsections (2) to (4) below apply, to replace all or any of the first governors.
- (2) This subsection applies where the governing body have been guilty of substantial or persistent failure to comply or secure compliance with any requirement imposed by or under any enactment.

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- (3) This subsection applies where—
- (a) there is a report of an inspection of the school in which the person who made it expressed the opinion that special measures were required to be taken in relation to the school,
  - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion,
  - (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the school under Chapter I of Part V of this Act, he did not express the opinion in the report that special measures were not required to be taken in relation to the school, and
  - (d) the Secretary of State has received a statement prepared under section 210 of this Act or the period allowed by subsection (2) of that section for the preparation of such a statement has expired;
- and expressions used in this subsection and in that Part have the same meaning as in that Part.
- (4) This subsection applies where in the opinion of the Secretary of State any action taken or proposed by the governing body of the school, or any failure of the governing body to act, is prejudicial to the provision of education by the school.
- (5) The instrument of government for a grant-maintained school which—
- (a) is a county school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 48 of this Act,
- shall enable the Secretary of State to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the governing body are unable or unwilling to fill the vacancies.
- (6) Any provision made by the instrument of government in pursuance of section 63(3) of this Act shall not apply for the purposes of the appointment by virtue of this section of any first governor.

## **65 Foundation governors**

- (1) The instrument of government for the governing body of a grant-maintained school which—
- (a) is a voluntary school immediately before it becomes grant-maintained, or
  - (b) is established in pursuance of proposals published under section 49 of this Act,
- shall provide for the governing body to include foundation governors.
- (2) The instrument shall provide for such number of foundation governors as will secure that they outnumber the other governors.
- (3) Subject to subsection (5) below, the instrument may provide for any foundation governorship to be held ex officio.
- (4) Subject to subsection (7) below, the instrument—
- (a) where it provides for a foundation governorship to be held ex officio, shall specify the office the holder of which is to be a foundation governor, and
  - (b) shall name the person or persons (if any) who are entitled to appoint any foundation governor.

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- (5) An additional foundation governor appointed by virtue of provision made in the instrument of government in pursuance of section 67(2) of this Act may not be appointed to hold office *ex officio*.
- (6) Subject to subsections (8) and (9) below, the instrument shall provide for at least two of the foundation governors to be (on the date or dates on which they respectively take office) parents of registered pupils at the school.
- (7) The initial instrument shall—
- (a) provide for the number of foundation governors to be such number (being a number which will secure that they will outnumber the other governors) as is specified,
  - (b) in the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained, provide for the person or persons who, immediately before the incorporation date, were named in the school's instrument of government as being entitled to appoint foundation governors (within the meaning of the Education Act 1944) to the existing governing body to be entitled to appoint the foundation governors for the governing body of the grant-maintained school,
  - (c) in the case of a grant-maintained school established in pursuance of proposals under section 49 of this Act, provide for the promoters to be entitled to appoint the foundation governors,
  - (d) where it provides for a foundation governorship to be held *ex officio*, provide for it to be held by the holder of a specified office,
- and in this subsection “specified” means specified in the proposals for acquisition of grant-maintained status or, as the case may be, the proposals for the establishment of a new grant-maintained school.
- (8) In the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained, the instrument shall have effect, notwithstanding anything in subsection (6) above, in relation to the determination of initial foundation governors as if it provided for the foundation governors to include at least two persons who on the date of their selection or appointment are parents of registered pupils at the school.
- (9) In the case of a grant-maintained school established in pursuance of proposals published under section 49 of this Act, subsection (6) above shall not apply in relation to the appointment of any foundation governor before the date of implementation of the proposals.

## **66 Sponsor governors**

- (1) The instrument of government for the governing body of a grant-maintained secondary school may—
- (a) name a person as a sponsor of the school, and
  - (b) provide for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the instrument.
- (2) Where a governing body of a school are to be incorporated in pursuance of proposals for acquisition of grant-maintained status, or proposals for the establishment of a new grant-maintained school, which name a person as a sponsor of the school, and the school is to be a secondary school, the initial instrument of government shall provide—

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- (a) for the person so named to be a sponsor of the school, and
  - (b) for the governing body to include such number of sponsor governors, not exceeding four, as is specified in the proposals.
- (3) Where the instrument of government provides for two or more persons named as sponsors of the school in such proposals or, as the case may be, in the instrument to appoint governors—
- (a) it shall provide for each sponsor to appoint such number of governors as is specified in relation to him in the proposals or, as the case may be, instrument, and
  - (b) it may not provide for any of those governors to be appointed by two or more sponsors acting jointly.
- (4) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, the instrument of government shall have effect as if it required the first appointments of sponsor governors to be made before the date of implementation of the proposals.

## **67 Additional governors**

- (1) The instrument of government for the governing body of a grant-maintained school shall enable the Secretary of State to appoint not more than two additional governors if it appears to him that the governing body are not adequately carrying out their responsibilities in respect of the conduct or management of the school.
- (2) The instrument shall enable the appointing authority, during any period when any additional governors appointed by the Secretary of State by virtue of subsection (1) above are in office, to appoint a number of additional first or, as the case may be, foundation governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.
- (3) In subsection (2) above, “the appointing authority” means the person entitled to appoint the first or, as the case may be, foundation governors on the governing body or, if more than one person is so entitled, the persons so entitled acting jointly.