



Education Act 2002

2002 CHAPTER 32

PART 3

MAINTAINED SCHOOLS

CHAPTER 1

GOVERNMENT OF MAINTAINED SCHOOLS

34 Arrangements for government of new schools

- (1) Where proposals for the establishment of a maintained school fall to be implemented under any enactment, the [^{F1}local authority] shall make arrangements providing for the constitution of a temporary governing body for the school.
- (2) Once constituted in accordance with arrangements made under subsection (1), the temporary governing body shall continue in existence until such time as the governing body are constituted for the school under an instrument of government.
- (3) The [^{F1}local authority] shall secure that the governing body are so constituted before such date as may be determined in accordance with regulations.
- (4) The requirement for there to be an instrument of government for a school (imposed by section 20) shall take effect in relation to a school falling within subsection (1) above as from the date determined under subsection (3).
- (5) Regulations may make provision with respect to—
 - (a) the making and termination of arrangements for the constitution of temporary governing bodies, including such arrangements made in anticipation of proposals falling to be implemented as mentioned in subsection (1),
 - (b) the constitution, meetings and proceedings of temporary governing bodies, the payment of allowances to temporary governors, and the appointment of clerks to such bodies,

Status: Point in time view as at 01/04/2016.

Changes to legislation: Education Act 2002, Section 34 is up to date with all changes known to be in force on or before 01 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the exercise by a temporary governing body before the school opening date of the powers conferred by section 27,
 - (d) the transition from a temporary governing body to a governing body constituted under an instrument of government, and
 - (e) such other matters relating to temporary governing bodies as the Secretary of State, or as the case may be the National Assembly for Wales, considers appropriate.
- (6) Regulations under subsection (5) may, in connection with any matters falling within that subsection—
- (a) modify any provision made under any of sections 19, 20 or 23 or by Schedule 1;
 - (b) apply any such provision with or without modifications;
 - (c) make provision corresponding or similar to any such provision.
- (7) Subject to subsection (8), the temporary governing body of a school shall be treated for the purposes of the Education Acts as if they were the governing body during the period—
- (a) beginning with the school opening date, and
 - (b) ending with the time when the governing body are constituted for the school under an instrument of government;
- and for the purposes of section 30(3) of this Act and sections 495 to 498 of the Education Act 1996 (c. 56) (general default powers of the Secretary of State) [^{F2}and Chapter 1 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in conduct of maintained schools in Wales)] the temporary governing body of a school shall also be so treated at any time falling before the school opening date.
- (8) Despite subsection (7), nothing in any of the following provisions, namely—
- (a) section 20(1),
 - (b) (subject to any regulations made under subsection (5)) Schedule 1, or
 - (c) (subject to any regulations made under subsection (5)) regulations made under section 19, 20 or 23,
- applies to any temporary governing body.
- (9) In this section “school opening date”, in relation to a new maintained school, means the date when the school first admits pupils.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1, Sch. 2 para. 11(2)**
- F2** Words in s. 34(7) inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 6(2)**; S.I. 2014/178, art. 2(f) (with art. 3)

Commencement Information

- I1** S. 34 in force at 1.4.2003 except in relation to W. by S.I. 2003/124, **art. 4**
- I2** S. 34 in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

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