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STATUTORY INSTRUMENTS

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**1996 No. 2049**

**EDUCATION, ENGLAND AND WALES**

**The Education (Grant-maintained Schools) (Initial Governing Instruments) (Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>31st July 1996</i>
<i>Laid before Parliament</i>		<i>9th August 1996</i>
<i>Coming into force</i>	- -	<i>1st September 1996</i>

Whereas pursuant to section 301(5) of the Education Act 1993<sup>(1)</sup>, the Secretary of State for Education and Employment has consulted bodies appearing to her to be representative of the Church of England and the Roman Catholic Church, and the Secretary of State for Wales has consulted a body appearing to him to be representative of the Church in Wales;

Now therefore, in exercise of the powers conferred on the Secretary of State by sections 56(1) and (3) and 301(6) of the Education Act 1993<sup>(2)</sup>, the Secretary of State for Education and Employment, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Education (Grant-maintained Schools) (Initial Governing Instruments) (Amendment) Regulations 1996 and shall come into force on 1st September 1996.

(2) Any reference in these Regulations to the principal Regulations is a reference to the Education (Grant-maintained Schools) (Initial Governing Instruments) Regulations 1993<sup>(3)</sup>.

**Amendments to Schedule 1 to the principal Regulations**

2.—(1) The initial instrument of government set out in Schedule 1 to the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 25—

(a) in sub-paragraph (2), for the words “a member of the staff of the School” there shall be substituted the words “employed as a teacher or otherwise at the School”;

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(1) 1993 c. 35.

(2) For the definitions of “prescribed” and “regulations” see section 305(1).

(3) S.I.1993/3102; amended by S.I. 1994/2094.

- (b) after sub-paragraph (5)(a), there shall be inserted the following—
    - “(aa) he is employed as a teacher or otherwise at the School;”;
  - (c) in sub-paragraph (8), for the words “a member of the staff of the School” there shall be substituted the words “a person who is employed as a teacher or otherwise at the School”.
- (3) In paragraph 35, for sub-paragraphs (a) (b) and (c) there shall be substituted the following sub-paragraphs—
- “(a) to withdraw from the meeting; and
  - (b) in the case of a member of the Governing Body, not to vote on any question with respect to any matter.”.
- (4) In paragraph 41—
- (a) in sub-paragraph (1), after “delegated to” there shall be inserted “or is otherwise exercisable by”;
  - (b) in sub-paragraph (2), after “delegated” there shall be inserted “or who has otherwise exercised a function of the Governing Body”.
- (5) There shall be substituted for paragraph 43 the following paragraph—
- “**43.**—(1) An appeal committee established in accordance with the provisions of the articles of government for the School made in pursuance of paragraphs 2(3) and 3(2)(c) of Schedule 6 to the 1993 Act shall be constituted in accordance with sub-paragraphs (2) to (9) below.
- (2) Subject to sub-paragraph (3) below, an appeal committee constituted in accordance with this paragraph shall consist of an odd number (being not less than five) of eligible governors appointed by the Governing Body.
- (3) An appeal committee constituted in accordance with this paragraph to consider an appeal against a decision of the Staff Committee to dismiss the head teacher of the School shall, in relation to any such appeal heard after 1st January 1997, consist of one independent member (with full voting powers) appointed by the Governing Body following consultation as required by sub-paragraph (5) below and an even number (being not less than four) of eligible governors appointed by the Governing Body.
- (4) For the purposes of this paragraph, “eligible governor” means a member of the Governing Body other than the head teacher or a member of the Staff Committee and “independent member” means a person who is not—
- (a) employed as a teacher or otherwise at the School;
  - (b) a past or present member of the Governing Body;
  - (c) among those who made the decision which is the subject of the appeal or who took part in discussions as to whether the decision should be made; or
  - (d) a parent of a registered pupil at the School.
- (5) The Governing Body shall:
- (a) inform the head teacher in writing of the name and address of the person whom they propose to appoint as the independent member and give the head teacher sufficient information about such person to enable the head teacher to comment on his suitability to act as the independent member;
  - (b) allow the head teacher 14 days in which to make representations regarding the appointment of an independent member;
  - (c) have regard to any such representations, and, subject to sub-paragraph (5)(d) below, decide who to appoint as the independent member;

- (d) if they decide not to appoint the proposed independent member referred to in sub-paragraph (5)(a) above, or a person recommended by the head teacher, repeat the steps set out in sub-paragraph (5)(a) to (c) above and in this sub-paragraph (5) (d) if applicable.
  - (a) (6) The quorum for a meeting of an appeal committee constituted in accordance with this paragraph and any vote on any matter thereat shall be the majority of the membership of the committee when complete.
  - (b) In the case of an appeal committee constituted in accordance with sub-paragraph (3) above, a meeting shall not be quorate unless one of the members present is the independent member.
  - (7) The members of an appeal committee constituted in accordance with this paragraph shall appoint a person from among their number to be chairman of the committee.
  - (8) The members of the appeal committee shall select a person, who is not from among their number, to act as the clerk to the committee; and the Governing Body shall appoint the person so selected so to act.
  - (9) The Governing Body may pay travelling expenses and subsistence or other allowances to independent members of appeal committees at such rates as may be approved by the Secretary of State.”.
- (6) In Appendix 1 (restriction on persons taking part in proceedings of the Governing Body)—
- (a) for paragraph 2(1) there shall be substituted the following sub-paragraph—
    - “2.—(1) Subject to sub-paragraphs (4) and (4A) below, if a person has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Governing Body at which the contract or other matter is the subject of consideration, he shall at the meeting, and as soon as practicable after its commencement, disclose that fact and withdraw from the meeting during the consideration or discussion of the contract or matter and he shall not vote on any question with respect to the contract or matter.”;
  - (b) in paragraph 2, after sub-paragraph (4), there shall be inserted the following sub-paragraph—
    - “(4A) This paragraph shall not prevent members of the Governing Body considering and voting upon proposals for the Governing Body to take out insurance protecting its members against liabilities incurred by them arising out of their office or the Governing Body obtaining such insurance and paying the premiums.”;
  - (c) for paragraph 3(3) there shall be substituted the following sub-paragraph—
    - “(3) In any case where sub-paragraph (1) or (2) above applies, the person first-mentioned in that sub-paragraph shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.”;
  - (d) for paragraph 6(2) there shall be substituted the following sub-paragraph—
    - “(2) Without prejudice to the preceding provisions of this Appendix, where this paragraph applies the person concerned shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.”.
- (7) In Appendix 2 (proceedings and meetings of committees), for the modification to Appendix 1 relating to “the Governing Body”, there shall be substituted the following modification—

“For “the Governing Body”, in each place in which it appears (other than in paragraphs 2(4)(b) and (c), 3(1)(b) and where it appears for the second time in paragraph 1(1)(a) and for the second and third time in paragraph 2(4A)) there is substituted “a committee of the Governing Body”.”.

(8) In Appendix 3 (constitution of appeal committees), for paragraph 11 there shall be substituted the following paragraph—

“**11.**—(1) Subject to sub-paragraph (2) below, the Governing Body may pay travelling expenses and subsistence or other allowances to members of an appeal committee who are not members of the Governing Body at such rates as may be approved by the Secretary of State.

(2) Where before 1st September 1996 the Governing Body has resolved to pay to members of an appeal committee travelling, subsistence or other allowances, the Governing Body may continue to pay to persons who are not members of the Governing Body, but were members of an appeal committee on or before 1st September 1996, travelling, subsistence or other allowances in accordance with such resolution.”.

### **Amendments to Schedule 2 to the principal Regulations**

**3.**—(1) The initial articles of government set out in Schedule 2 to the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In Article 1, in paragraph (1), after the definition of “the Head Teacher”, there shall be inserted the following definitions—

““local average figures” means the average figures for all schools maintained by the local education authority in the area of which the School is situated (other than any special school established in a hospital), all grant-maintained schools, grant-maintained special schools (other than any established in a hospital) and all city technology colleges and city colleges for the technology of the arts, in the area of the local education authority in which the School is situated;

“national average figures” means the average figures for all schools in England or Wales as appropriate, according to whether the School is situated in England or Wales;

“national summary figures” means the summary figures in respect of National Curriculum assessments of pupils for all schools in England or Wales as appropriate, according to whether the School is situated in England or Wales.”.

(3) In Article 7—

(a) for paragraph (2), there shall be substituted the following paragraph—

“(2) Any arrangements (whether as initially determined or as revised by the Governing Body) which allow for the admission to the School of children to whom this paragraph applies, shall have effect only if approved by the Secretary of State.”;

(b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) Paragraph (2) applies to children—

(a) who will not have attained the age of five years at the time of their proposed admission, and

(b) whose education (if they were admitted to the School) would not constitute nursery education for the purposes of the Nursery Education and Grant-Maintained Schools Act 1996(4).”; and

- (c) in paragraph (3)(d), the words “with the approval of the Secretary of State” shall be omitted.
- (4) In Article 8—
  - (a) in paragraph (1)(a) the words “the arrangements for the admission of pupils to the School, including in particular” shall be omitted; and
  - (b) at the end of paragraph (1)(a)(i), for the word “and” there shall be substituted the word “or”.
- (5) In Article 13—
  - (a) for paragraph (2)(i) there shall be substituted the following sub-paragraphs—
    - “(i) give such information about public examinations and other assessments of pupils’ achievements at the School, the continuing education of pupils leaving the School, the employment or training taken up by such pupils and pupils’ absences from the School as is required to be published pursuant to any regulations in force from time to time under section 153(1) of the 1993 Act;
    - (ii) give such information about the local average figures and national average figures, or, as the case may be, national average figures only, (corresponding to the information referred to in sub-paragraph (i) above about public examinations) as is required to be made available pursuant to any regulations in force from time to time under section 22 of the 1988 Act;
    - (iii) give such information about national summary figures (corresponding to the information referred to in sub-paragraph (i) above about assessments of pupils’ achievements other than public examinations) as is required to be made available pursuant to any regulations in force from time to time under section 22 of the 1988 Act.”.
  - (b) after paragraph (2)(j) there shall be inserted the following sub-paragraphs—
    - “(jj) describe in general terms the arrangements made for the security of the School’s pupils, staff and premises;
    - (jjj) describe, in relation to the period since their last report, to what extent the aims of the Governing Body with respect to sport at the School have been attained and any notable sporting achievement of the School’s teams during that period;”;
  - (c) at the end of paragraph 2(k) the word “and” shall be omitted and after paragraph 2(k) there shall be inserted the following sub-paragraph—
    - “(kk) where the School is in England, summarise the nature, amount and purpose of training undertaken by the School’s teaching staff in the period since the last governors’ report, identifying in particular the nature, amount and purpose of any such training undertaken on any day when pupils are not taught at the School to allow the training to take place; and”.
- (6) In Article 19—
  - (a) in paragraph (2), after “paragraphs” there shall be inserted “(2A)”;
  - (b) after paragraph (2) there shall be inserted the following paragraph—
    - “(2A) The Staff Committee may delegate to the Head Teacher any of its functions conferred by paragraph (2) above relating to the conduct and discipline of persons employed to work at the School (other than the Head Teacher) up to and including the giving of a final written warning to the effect that the Staff Committee may consider whether a person should be dismissed.”;
  - (c) paragraph (4) shall be amended by the addition at the end of the following words—

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“except where the functions of the Staff Committee are exercised by the Head Teacher pursuant to paragraph (2A) above.”.

(7) In paragraph 7 of Appendix 2, after “subject to” there shall be inserted “paragraph 43 of the instrument of government for the School and to”.

26th July 1996

*Robin Squire*  
Parliamentary Under Secretary of State,  
Department for Education and Employment

31st July 1996

*William Hague*  
Secretary of State for Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Education (Grant-maintained Schools) (Initial Governing Instruments) Regulations 1993 (“the principal Regulations”).

Regulation 2 amends the initial instrument of government set out in Schedule 1 to the principal Regulations.

Paragraph 25 of the initial instrument is amended to provide that a governor who is employed at the school must cease to hold office as chairman or vice-chairman of the governing body.

Paragraph 41 of the initial instrument is amended to clarify that whenever any member of the governing body or a committee established by the governing body exercises a function of the governing body, the member or committee must report back to the full governing body.

Paragraph 43 of the initial instrument is amended to provide for the inclusion of an independent member on any committee constituted to hear an appeal against a decision to dismiss a head teacher, if the appeal is heard after 1st January 1997. Provision is made for the head teacher to be consulted regarding the independent member whom the governing body propose to appoint. Provision is made for payment of expenses and allowances to independent members. Provision is also made for the quorum of all dismissal appeal committees.

Paragraph 35 of and Appendix 1 to the initial instrument (restriction on persons taking part in proceedings of the governing body) are amended so that the governing body no longer have discretion to permit a governor who has an interest in a matter under discussion to stay and listen to the discussion. Appendix 1 is further amended to provide that the provisions relating to withdrawal from meetings in which members of the governing body have a pecuniary interest do not prevent members of the governing body considering or obtaining insurance protecting them against liabilities arising out of their office.

Appendix 2 to the initial instrument (proceedings and meetings of committees) is amended to reflect changes to Appendix 1.

Appendix 3 to the initial instrument (constitution of appeal committees): the provisions relating to payment of allowances for members of admission and exclusion appeal committees are amended. In particular the provisions now apply only to members of committees who are not members of the governing body. (Provision for allowances to members of the governing body is made in paragraph 14 of Schedule 5 to the Education Act 1993.)

Regulation 3 amends the initial articles of government set out in Schedule 2 to the principal Regulations.

Article 7 of the initial articles is amended so that the general requirement that the governing body should secure the prior written consent of the Secretary of State before adopting or amending admission arrangements is omitted, except that such consent will still be required where the governing body wish to adopt arrangements that would entail the admission of children who have not yet attained the age of five and in respect of whose education grant is not payable under the Nursery Education and Grant-Maintained Schools Act 1996.

Article 8 of the initial articles is amended so as to restrict the governing body’s right to refuse an application for admission, in reliance on the ground that the admission of the child concerned would be incompatible with the school’s admission arrangements, to those cases where the admission would

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be incompatible with the arrangements for preserving the religious character of the school or for selecting pupils by reference to ability or aptitude.

Article 13 of the initial articles is amended to require annual reports to include information about not only public examinations, but also other assessments of pupils' achievements, local and national averages for public examinations, national summary figures relating to National Curriculum assessments, pupils' absences from school and continuing education and employment or training taken up by pupils leaving the school. Article 13 now requires annual reports to describe arrangements for school security, describe how far sporting aims have been met, and notable sporting achievements, and summarise training undertaken by teaching staff.

Article 19 of the initial articles is amended to state that staff committees may delegate to head teachers certain disciplinary functions.