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STATUTORY INSTRUMENTS

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**1999 No. 2163**

**The Education (School Government)  
(England) Regulations 1999**

**PART IV**

**CLERKS**

**Application and interpretation**

**21.**—(1) Regulations 23 and 25 do not apply to the appointment of the first clerk to the temporary governing body of a new school.

(2) Subject to paragraph (1), in regulations 22 to 25 references to a community, voluntary controlled, community special, foundation, voluntary aided or foundation special school, or to a maintained school, include a new school which will be such a school.

(3) Any provision in this Part relating to the dismissal of a clerk to the governing body is without prejudice to any rights and liabilities which the clerk may have if he is employed under a contract of employment.

**Clerk to the governing body: restrictions**

**22.**—(1) On and after 1st April 2000—

- (a) the clerk to the governing body of a maintained school shall not be a member of the governing body;
- (b) the head teacher of a maintained school shall not serve as clerk to the governing body.

(2) Notwithstanding paragraph (1), the governing body may, where the clerk fails to attend a meeting of theirs, appoint any one of their number to act as clerk for the purposes of that meeting.

**Appointment of the clerk to the governing body**

**23.**—(1) This regulation is subject to regulation 25.

(2) Where there is a vacancy in the office of clerk to the governing body<sup>(1)</sup> of a community, voluntary controlled or community special school, the local education authority shall appoint a person selected by the governing body to be the clerk.

(3) Where there is a vacancy in the office of clerk to the governing body of a foundation, voluntary aided or foundation special school, the governing body shall appoint a clerk.

**Dismissal of the clerk**

**24.**—(1) This regulation is subject to regulation 25.

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(1) Part VIII of these Regulations contains provisions relating to clerks to governing bodies and temporary governing bodies on transition to the new schools framework under the 1998 Act.

(2) Where the governing body of a community, voluntary controlled or community special school determine that the clerk to the governing body should be dismissed—

- (a) they shall notify the authority in writing of their determination and the reasons for it; and
- (b) the authority shall dismiss the clerk to the governing body on receipt of the notification from the governing body.

(3) The governing body of a foundation, voluntary aided or foundation special school may determine that the clerk should be dismissed.

**Appointment and dismissal of the clerk where the school does not have a delegated budget**

**25.**—(1) If at any time a maintained school does not have a delegated budget the following provisions shall apply.

(2) In the case of a community, voluntary controlled or community special school, the local education authority may appoint and dismiss the clerk to the governing body as the authority think fit.

(3) The authority shall in connection with the exercise of their functions under paragraph (2) consult the governing body to such extent as the authority think fit.

(4) In the case of a foundation, voluntary aided or foundation special school—

- (a) except with the consent of the local education authority, the governing body shall not—
  - (i) appoint a clerk, or
  - (ii) dismiss the clerk;
- (b) the local education authority may give the governing body directions requiring them to dismiss the clerk.

**First clerk to the temporary governing body**

**26.**—(1) The first clerk to the temporary governing body of a new school which will be a community, voluntary controlled, or community special school, or a foundation or foundation special school proposals for the establishment of which were published by the local education authority, shall be appointed by the local education authority.

(2) The first clerk to the temporary governing body of a new school not referred to in paragraph (1) which will be a foundation or voluntary aided school shall be appointed by the promoters of the school.

**Clerking on transition to the permanent governing body**

**27.** The person who was the clerk to the temporary governing body of a new school shall act as clerk to the governing body who succeed them, pending the appointment of their clerk.