

SCHEDULE 5

Regulations 15 and 50

QUALIFICATIONS AND DISQUALIFICATIONS

General

1.—(1) No person shall be qualified for membership of a governing body of a school unless he is aged 18 or over at the date of his election or appointment.

(2) No person shall at any time hold more than one governorship of the same school.

(3) Subject to paragraphs 12 and 15, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a school does not disqualify him for election or appointment or for continuing as a governor of any other category at that school.

Mental disorder

2. A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is liable to be detained under the Mental Health Act 1983(1).

Governor of more than two schools

3.—(1) A person shall be disqualified for holding office as a governor of a school if, were he to continue in office as such on transition to the new schools framework, or be appointed or elected to that office, he would, on the date on which he would have so continued in office or on which the appointment or election would have taken effect, be a member of the governing body of more than two schools.

(2) For the purposes of sub-paragraph (1) no account shall be taken of ex officio governorships, temporary governorships, or additional governorships of governors appointed under section 27 of the School Inspections Act 1996(2) or section 16 or 18 of the 1998 Act.

(3) Sub-paragraph (4) applies to a person who continues in office on transition to the new schools framework as, or who becomes, an ex officio member of the governing body of a relevant school and is an ex officio member of the governing body of more than two relevant schools.

(4) A person to whom this sub-paragraph applies shall be disqualified for continuing to hold office as an ex officio governor of any relevant school unless that school is for the time being a designated school.

(5) For the purposes of sub-paragraph (4), a designated school is a school designated by the ex officio governor, in accordance with sub-paragraph (6), by notice in writing to the clerk to the governing body of the school and to the clerk to the governing body of any other relevant school whose instrument of government provides for him to be an ex officio member.

(6) A person to whom sub-paragraph (4) applies may designate one or two maintained schools provided that the number of governing bodies of relevant schools of which he will be an ex officio member shall be no more than two.

(7) For the purposes of this paragraph, a relevant school is a maintained school at which the governing body conducting the school are constituted or partly constituted under an instrument of government made under Schedule 12 to the 1998 Act.

(1) 1983 c. 20.

(2) 1996 c. 57. See regulation 57 of the School Organisation Regulations.

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Failure to attend meetings

4.—(1) This paragraph shall apply in the case of any governor of a school who is not an ex officio governor.

(2) Such a governor who, without the consent of the governing body concerned, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of a meeting, shall, on the expiry of that period, be disqualified for continuing to hold office as a governor of that school.

(3) Where a governor has sent an apology to the clerk to the governing body before a meeting which he does not propose to attend, the minutes of the meeting shall record the governing body's consent or otherwise to his absence and a copy of the minutes shall be sent to the governor concerned at his normal place of residence.

(4) In relation to a governor who has continued in office on transition to the new schools framework, the period before 1st September 1999 shall be taken account of in considering whether the governor has failed to attend meetings of the governing body for a continuous period of six months for the purposes of sub-paragraph (2).

(5) A foundation governor, LEA governor, representative governor, partnership governor or co-opted governor who has been disqualified as a governor of a school under sub-paragraph (2) shall not be qualified for nomination or appointment as a governor of the same category at that school during the twelve months immediately following his disqualification under sub-paragraph (2).

Bankruptcy

5. A person shall be disqualified for holding or continuing to hold office as a governor of a school if—

(1) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded;

(2) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

Disqualification of company directors

6. A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is subject to a disqualification order under the Company Directors Disqualification Act 1986(3) or to an order made under section 429(2)(b) of the Insolvency Act 1986(4) (failure to pay under county court administration order).

Disqualification of charity trustees

7. A person shall be disqualified for holding or for continuing to hold office as a governor of a school if—

(1) he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or

(2) he has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(5) (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body.

(3) 1986 c. 46.

(4) 1986 c. 45.

(5) 1990 c. 40.

Persons whose employment is prohibited or restricted

8.—(1) A person shall be disqualified for holding or for continuing to hold office as a governor of a school at any time when he is included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted.

(2) In sub-paragraph (1), “the list” means the list kept for the purposes of regulations made under section 218(6) of the Education Reform Act 1988(6).

Persons disqualified for being proprietors of independent schools

9. A person shall be disqualified for holding or continuing to hold office as a governor of a school at any time when he is, by virtue of an order made under section 470 or section 471 of the 1996 Act, disqualified for being the proprietor of any independent school or for being a teacher or other employee in any school.

Criminal convictions

10.—(1) Subject to sub-paragraph (6) below, a person shall be disqualified for holding, or for continuing to hold, office as a governor of a school where any of sub-paragraphs (3) to (5) or (7) below apply to him.

(2) In cases where a member of a governing body has continued in office as a governor of a school on transition to the new framework, in this paragraph, a reference to a person’s appointment or election as governor, or becoming a governor ex officio, is a reference to his original appointment or election as a governor, or becoming a governor ex officio, within the terms of the 1996 Act.

(3) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio, he has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(4) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, he has been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than two and a half years.

(5) This sub-paragraph applies to a person if he has at any time been convicted as aforesaid of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

(6) For the purposes of sub-paragraphs (3) to (5) above, there shall be disregarded any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom.

(7) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or

(6) 1988 c. 40. Section 218 of the 1998 Act has been amended by paragraph 17 of Schedule 30 to the 1998 Act.

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- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio, he has been convicted under section 547 of the 1996 Act (nuisance and disturbance on education premises) of an offence which took place on the premises of a school maintained by a local education authority or a grant-maintained school, and has been sentenced to a fine.

Notification to clerk

- 11.** Where, by virtue of any paragraphs 5 to 10–
- (a) a person becomes disqualified for holding, or for continuing to hold, office as a governor of a school; and
 - (b) he is, or is proposed, to become such a governor, he shall upon becoming so disqualified give written notice of that fact to the clerk to the governing body of the school.

Co-opted governor

- 12.** A person shall be disqualified for appointment as a co-opted governor of a school other than an additional co-opted governor if he is–
- (a) a registered pupil at the school;
 - (b) eligible to be a staff governor or a teacher governor of the school; or
 - (c) an elected member of the local education authority.

Parent governor

- 13.** A person shall be disqualified for appointment(7) as a parent governor of a school if he is–
- (a) an elected member of the local education authority,
 - (b) an employee of the local education authority; or
 - (c) an employee of the governing body of any school maintained by the local education authority; unless he is a parent of a registered pupil at the school.

14. A person shall not be disqualified for continuing to hold office as a parent governor when he ceases to be a parent of a registered pupil at the school or to fulfil any of the requirements set out in paragraphs 5 or 6 of Schedule 2.

Partnership governors

- 15.** A person shall be disqualified for nomination or appointment as a partnership governor of a school if he is–
- (a) a parent of a registered pupil at the school;
 - (b) eligible to be a staff governor or a teacher governor of the school; or
 - (c) an elected member or employee of the local education authority.

Teacher and staff governors

16. A teacher governor or a staff governor of a school shall, upon ceasing to be employed to work at the school, be disqualified for continuing to hold office as such a governor.

(7) This paragraph does not apply to elected parent governors.